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The *California Regulatory Notice Register* is an official state publication of the Office of Administrative Law containing notices of proposed regulatory actions by state regulatory agencies to adopt, amend or repeal regulations contained in the California Code of Regulations. The effective period of a notice of proposed regulatory action by a state agency in the *California Regulatory Notice Register* shall not exceed one year [Government Code § 11346.4(b)]. It is suggested, therefore, that issues of the *California Regulatory Notice Register* be retained for a minimum of 18 months.

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PROPOSED ACTION ON REGULATIONS

Information contained in this document is published as received from agencies and is not edited by the Office of State Publishing.

TITLE 2. FAIR POLITICAL PRACTICES COMMISSION

NOTICE IS HEREBY GIVEN that the Fair Political Practices Commission, pursuant to the authority vested in it by Sections 82011, 87303 and 87304 of the Government Code to review proposed conflict of interest codes, will review the proposed/amended conflict of interest codes of the following:

CONFLICT OF INTEREST CODES

ADOPTION

MULTI-COUNTY

Horizons Instructional Systems
Water Quality Improvement JPA for
the Dos Palos Area

AMENDMENT

STATE AGENCY

Dept. of Alcohol and Drug Programs
Dept. of Real Estate
Dept. of Transportation
State Treasurer's Office

A written comment period has been established commencing on **September 20, 2002** and closing on **November 04, 2002**. Written comments should be directed to the Fair Political Practices Commission, Attention Teri Rindahl, 428 J Street, Suite 620, Sacramento, California 95814.

At the end of the 45-day comment period, the proposed conflict of interest code(s) will be submitted to the Commission's Executive Director for his review; unless any interested person or his or her duly authorized requests, no later than 15 days prior to the close of the written comment period, a public hearing before the full Commission. If a public hearing is requested, the proposed code(s) will be submitted to the Commission for review.

The Executive Director or the Commission will review the above-referenced conflict of interest code(s), proposed pursuant to Government Code Section 87300, which designate, pursuant to Government Code Section 87302, employees who must disclose certain investments, interests in real property and income.

The Executive Director or the Commission, upon his or its own motion or at the request of any interested person, will approve, or revise and approve, or return the proposed code(s) to the agency for revision and re-submission within 60 days without further notice.

Any interested person may present statements, arguments or comments, in writing to the Executive Director of the Commission, relative to review of the proposed conflict of interest code(s). Any written comments must be received no later than **November 04, 2002**. If a public hearing is to be held, oral comments may be presented to the Commission at the hearing.

COST TO LOCAL AGENCIES

There shall be no reimbursement for any new or increased costs to local government which may result from compliance with these codes because these are not new programs mandated on local agencies by the codes since the requirements described herein were mandated by the Political Reform Act of 1974. Therefore, they are not "costs mandated by the state" as defined in Government Code Section 17514.

EFFECT ON HOUSING COSTS AND BUSINESSES

Compliance with the codes has no potential effect on housing costs or on private persons, businesses or small businesses.

AUTHORITY

Government Code Sections 82011, 87303 and 87304 provide that the Fair Political Practices Commission as the code reviewing body for the above conflict of interest codes shall approve codes as submitted, revise the proposed code and approve it as revised, or return the proposed code for revision and re-submission.

REFERENCE

Government Code Sections 87300 and 87306 provide that agencies shall adopt and promulgate conflict of interest codes pursuant to the Political Reform Act and amend their codes when change is necessitated by changed circumstances.

CONTACT

Any inquiries concerning the proposed conflict of interest code(s) should be made to Teri Rindahl, Fair Political Practices Commission, 428 J Street, Suite 620, Sacramento, California 95814, telephone (916) 322-5660.

AVAILABILITY OF PROPOSED CONFLICT OF INTEREST CODES

Copies of the proposed conflict of interest codes may be obtained from the Commission offices or the respective agency. Requests for copies from

the Commission should be made to Teri Rindahl, Fair Political Practices Commission, 428 J Street, Suite 620, Sacramento, California 95814, telephone (916) 322-5660.

TITLE. 3. DEPARTMENT OF FOOD AND AGRICULTURE

NOTICE OF INTENTION TO AMEND THE CONFLICT OF INTEREST CODE

NOTICE IS HEREBY GIVEN that the California Department of Food and Agriculture intends to amend its Conflict of Interest Code ("Code"), located at Title 3, California Code of Regulations, Chapter 1, Subchapter 1.1, Section 2 and Appendix. Pursuant to Government Code Sections 87300–87302, the Code designates employees who must disclose certain investments, income, interests in real property and business positions, and who must disqualify themselves from making or participating in the making of governmental decisions affecting those interests.

A written comment period has been established commencing on September 20, 2002 and ending on November 4, 2002. Any interested person may present written comments concerning the proposed code amendments no later than November 4, 2002 to Michael P. Krug, California Department of Food and Agriculture, 1220 N Street, Suite 419, Sacramento, California 95814. A public hearing has not been scheduled on this matter. However, if an interested person or a representative of an interested person requests a public hearing no later than October 21, 2002, the Department will conduct a public hearing regarding this proposed amendment to its Conflict of Interest Code.

The Department of Food and Agriculture has prepared a written explanation of the reasons for the designations and the disclosure responsibilities and has available all of the information upon which its proposal is based.

Copies of the proposed Code amendments and all of the information upon which the proposal is based may be obtained from Michael P. Krug or Lucy Valenton at the Department of Food and Agriculture, 1220 N Street, Suite 419, Sacramento, California 95814, (916) 654-1393, FAX (916) 653-1293. Any inquiries or comments pertaining to the substance of the proposed Code amendments should be directed to Michael P. Krug at the above address, phone or fax number, or by e-mail at mikekrug@cdfa.ca.gov. The Department also has posted the information regarding this proposed regulatory action on its Internet website at www.cdfa.ca.gov/cdfa/regs.

ALTERNATIVES CONSIDERED

The Department of Food and Agriculture must determine that no reasonable alternative considered by the Department would be more effective in carrying out the purpose for which the action is proposed or would be as effective and less burdensome to affected private persons than the proposed action.

COST TO LOCAL AGENCIES AND SCHOOL DISTRICTS

Adoption of the proposed amendments will not impose 1) any costs or savings to any state agency, or 2) any cost to any local agency or school district that is required to be reimbursed under Part 7 (commencing with Section 17500) of Division 4 of the Government Code, or 3) any other nondiscretionary cost or savings to local agencies, or 4) any costs or savings in federal funding to the state.

EFFECT ON HOUSING COSTS, PRIVATE PERSONS, BUSINESSES, AND SMALL BUSINESSES

The proposed amendment to the regulation will have no significant effect on housing costs or on private persons, businesses, or small businesses.

AUTHORITY AND REFERENCE

Authority: Food and Agricultural Code Section 407; Government Code Section 87306.

Reference: Government Code Sections 87300–87302 and 87306.

TITLE 5. SCHOLARSHARE INVESTMENT BOARD

NOTICE OF PROPOSED RULEMAKING

Notice is hereby given that the ScholarShare Investment Board proposes to amend Sections 31000, 31001, 31003, 31004, 31005, 31006 and 31007 of the existing Governor's Scholarship Programs.

PUBLIC HEARING

The Board has not scheduled a public hearing on this proposed action. However, the Board will hold a public hearing if it receives a written request for a public hearing from any interested person, or his or her authorized representative, no later than 15 days before the close of the written comment period. Following the public hearing, if one is requested, or following the written comment period, if no public hearing is requested, the ScholarShare Investment Board, on its own motion, may adopt the proposal substantially as set forth without further notice.

WRITTEN COMMENT PERIOD

Any interested person, or his or her authorized representative, may submit written comments relevant to the proposed regulatory action to the Board. The written comment period closes at **5:00 P.M.** on **November 4, 2002**. The Board will consider only comments received at the Board's offices by that time. Written comments or petitions requesting a public hearing should be directed to:

Wanda Wallis, Program Analyst
ScholarShare Investment Board
915 Capitol Mall, Suite 219
Sacramento, CA 95814
Telephone - (916) 651-8826
Fax - (916) 651-6382
Email - wwallis@treasurer.ca.gov

AUTHORITY AND REFERENCE

Education Code Section 69995(b) authorizes the Board to adopt regulations to implement the Governor's Scholarship Programs and Sections 69996(a) and 69996(d) direct the Board to establish specific rules and regulations. The Board proposes changes to the regulations in order to implement, interpret and make specific Sections 69995, 69996, 69997, 69998 and 69999 of the Education Code, and Sections 117 and 529 of the Internal Revenue Code.

INFORMATIVE DIGEST/POLICY STATEMENT OVERVIEW

The ScholarShare Investment Board (the Board) is statutorily charged with administering the Governor's Scholarship Programs. The California legislature also gave the Board the authority to adopt emergency regulations and, in doing so, specified that the adoption of the regulations shall be deemed to be an emergency and necessary for the immediate preservation of the public peace, health and safety, or general welfare.

At its November 29, 2001 meeting, the Board voted to approve emergency regulations which took effect on January 1, 2002, in order to further clarify and streamline administrative activities of the Governor's Scholarship Programs. This would ensure that the regulations would be in effect before award notifications were issued for the second program year in January 2002.

Education Code Sections 69995(b) and 69996(d) require the Board to adopt rules and regulations governing the programs, specifically with respect to the claiming process, necessary documentation, deadlines for the claims and the granting of awards, an appeals procedure, and forfeiture procedures.

1. Existing regulations reference documents and information needed for scholarship transactions. The addition of Section 31000(b) permits the use of

electronic notifications and signatures when a written document is needed. The technology for secure transmissions of electronic signature is available. Permitting such transmissions will streamline the process for claiming and disbursing scholarship funds, allow disbursements to be issued more quickly, and be more cost-effective than manually processing paper requests.

2. Existing regulations specify in Section 31001(a) that to claim a Governor's Scholars Award, a pupil must provide the pupil's name, mailing address, birth date, social security number or taxpayer identification number. The proposed addition as new Section 31001(a)(5) requires the pupil to provide a contact telephone number. The Governor's Scholarship Programs have found that prompt personal contact with a student when a problem arises with a scholarship claim or withdrawal request allows the problem to be resolved more quickly and satisfactorily. Without a contact telephone number, the time required for resolution of problems through an exchange of correspondence is often inefficient and frustrating for the student. Section 31001(a) is renumbered to reflect this addition.
3. Existing regulations establish in Section 31001(c) that if test scores match the test score requirements for an award as specified in the Education Code, the award recipient shall be eligible for the award as an entitlement. The proposed changes to this regulation clarify that eligibility will be determined by test score information provided by the test publisher. The proposed changes also permit the Board of Education to modify the required examinations and test score requirements. This makes the regulation consistent with Education Code Section 69998(e) and (f).
4. Existing regulations provide in Section 31001(f) that if an award recipient claims an award and it is later discovered that the information provided by the award recipient or the test publisher is incorrect, the award recipient shall provide documentation to resolve the dispute. The proposed change in the regulation provides that if the award recipient cannot resolve the dispute, the Board may require the disputed award to be forfeited. The current regulation allows an award winner to provide documentation to resolve or disprove allegations that would render the award winner ineligible for an award, but does not specify the consequence or process to be followed if the award recipient is unable to provide such documentation.
5. Existing regulations specify in Section 31001(g) that the Board shall verify exam scores for the Governor's Distinguished Mathematics and Sci-

- ence Award (Governor's Math and Science Award) with the test publishers of the qualifying exams. If the Board is unable to verify scores with the test publisher, the Board shall require the award recipient to submit a copy of the official score report. The proposed changes include the Board's designee as authorized to verify exam scores. If the scores are not verified by the test publisher, the claim will be rejected and the award recipient may appeal the rejection following the process outlined in Section 31007. The appeal must include a copy of the award recipient's official score report that indicates that the award recipient received a qualifying score. The current regulation specifies that exam scores for the Governor's Math and Science Award shall be verified for each claimant, but does not specify the consequence or appeal process to be followed if the exam scores cannot be verified.
6. Existing regulations establish in Section 31001(h) that an award must be claimed by June 30th following the five-year anniversary of the qualifying achievement test. The proposed regulations clarify that scholarship funds will revert to the General Fund if not claimed by the award recipient by the specified time.
 7. Existing regulations stipulate in Section 31003 that the Board shall rely on the information provided by the award recipient unless it receives information to the contrary from the State of California or the test publisher. The proposed addition of Section 31003(a) authorizes the Board's designee to rely on the information provided by the award recipient, lists the current test publishers, and permits the Board to accept contrary information from any other credible source. The addition of new Section 31003(b) requires the Board and its designee to rely on the test publishers for accurate test score information. If errors are found in the information, the test publisher will provide corrections in the same format as the original test score data file.
 8. Existing regulations in Section 31004(e) require that any scholarship funds distributed on behalf of an award recipient and returned to the award recipient must be returned to the Board's designee. The proposed changes clarify that scholarship funds returned to the award recipient may be used for qualified higher education expenses other than those identified in the original request for distribution of funds in the same tax year the award recipient received the refund. It is the intent to allow the re-use of the scholarship funds for other qualified expenses, and to specify the time restriction on the return of the scholarship funds if not used for qualified expenses.
 9. Existing regulations in Section 31005(b) and (c) identify disqualifying events that will result in the forfeiture of scholarship funds and the procedures to be followed before the forfeiture is enforced. The proposed regulations change the time allowed for the award recipient to provide documentation to disprove the disqualifying event before a final determination of forfeiture is issued, from 90 days to 30 days from the date of the award recipient's receipt of the written notice; permits the award recipient to file an appeal to the Board within 30 days from receipt of a final determination of forfeiture; withholds distribution of any scholarship funds in dispute; and clarifies that the actual forfeiture of scholarship funds will occur only after the award recipient fails to appeal the final determination or the Board upholds the final determination. The proposed changes provide clarity and specify more completely the rights of the award recipient and the process to be followed in the event that the Board identifies a potentially disqualifying event.
 10. Subsections of existing regulations in Section 31006 are numbered for clarity.
 11. Existing regulations specify in Section 31007 a process by which an award recipient may appeal an adverse decision regarding eligibility or the administration of an award recipient's scholarship account. The proposed changes clarify and make more specific the process to be followed in the event an award recipient appeals an adverse decision. The regulation specifies the response time allowed for the appellant and the Board and the documentation required at each level of appeal. Without specific guidelines, resolution of appeals could be hampered by lack of information needed to consider the appeal and could take an unreasonably long time for completion.

DISCLOSURES REGARDING THE PROPOSED ACTION

The Board has made the following initial determinations:

- Mandate on local agencies and school districts: None.
- Cost to any local agency or school district which must be reimbursed in accordance with Government Code Sections 17500 through 17630: None.
- Other non-discretionary costs or savings imposed on local agencies: None.
- Costs or savings to any state agency: None.
- Costs or savings in federal funding to the state: None.
- Significant, statewide adverse economic impact directly affecting business, including the ability of

California businesses to compete with businesses in other states: The Board has initially determined that the proposed regulations will not have such an impact.

- Cost impacts on a representative private person or business: The Board is not aware of any costs impacts that a representative private person or business would necessarily incur in reasonable compliance with the proposed action.
- Significant effect on housing costs: None.
- Impact on Jobs/New Businesses: The Board has determined that this regulatory proposal will not have significant impact on the creation of jobs or businesses or the elimination of jobs or existing businesses or the expansion of businesses in the State of California.

SMALL BUSINESS DETERMINATION

The Board has determined that these proposed regulations do not affect small business. The proposed regulations identify no actions required of or referencing small business.

CONSIDERATION OF REASONABLE ALTERNATIVES

In accordance with Government Code Section 11346.5, Subdivision (a)(13), the Board must determine that no reasonable alternative it considered or that has otherwise been identified and brought to the attention of the Board would be more effective in carrying out the purpose for which the action is proposed or would be as effective and less burdensome to affected private persons than the proposed action.

The Board invites interested persons to present statements or arguments with respect to alternatives to the proposed regulations during the written comment period.

CONTACT PERSONS

Inquiries concerning the proposed administrative action may be addressed to:

Wanda Wallis, Program Analyst
ScholarShare Investment Board
915 Capitol Mall, Suite 219
Sacramento, CA 95814
Telephone - (916) 651-8826
Fax - (916) 651-6382
Email - wwallis@treasurer.ca.gov.

The following person is designated as a backup contact person:

Carrie Douglas Fong, Executive Director
ScholarShare Investment Board
Telephone - (916) 653-3354

Questions on the substance of the proposed regulations may be directed to either Ms. Wallis or Ms. Douglas Fong.

Please direct requests for copies of the proposed text of the regulations, the initial statement of reasons, or other information upon which the rulemaking is based, to Ms. Wallis at the above address.

AVAILABILITY OF THE STATEMENT OF REASONS AND TEXT OF PROPOSED REGULATIONS

The Board will have the entire rulemaking file available for inspection and copying throughout the rulemaking process at its office at the above address during normal business hours. The file may also be accessed on the website indicated in this Notice. As of the date this Notice is published in the Notice Register, the rulemaking file includes this Notice, the proposed text of the regulations, and the Initial Statement of Reasons.

AVAILABILITY OF CHANGED OR MODIFIED TEXT

After the close of the forty-five (45) day written comment period and following a public hearing, if a public hearing is requested, and after considering all timely and relevant comments received, the Board may adopt the proposed regulations substantially as described in this Notice without further written notice.

If the Board makes modifications which are sufficiently related to the originally proposed text of the regulations, copies of the revised text will be made available to the public for a period of at least fifteen (15) days before the Board adopts the regulations as revised. Requests for copies of any changed or modified regulations may be obtained by contacting the Wanda Wallis, the Board's contact person, at the above address. The Board's website may also be accessed at <http://www.treasurer.ca.gov/scholarshare>. The Board will accept written comments on the modified regulations for 15 days after the date on which they are made available.

AVAILABILITY OF FINAL STATEMENT OF REASONS

Upon its completion, a copy of the Final Statement of Reasons may be obtained by contacting Wanda Wallis at the above address or website.

AVAILABILITY OF DOCUMENTS ON THE INTERNET

Copies of the Notice of Proposed Rulemaking, the Initial Statement of Reasons, and the text of the regulations in underline and strikeout, may be accessed through our website at <http://www.treasurer.ca.gov/scholarshare>.

**TITLE 10. DEPARTMENT
OF INSURANCE**

**STATE OF CALIFORNIA
45 Fremont Street, 21st Floor
San Francisco, California 94105**

**NOTICE OF PROPOSED ACTION AND
NOTICE OF PUBLIC HEARING
REGARDING LOW COST AUTOMOBILE
INSURANCE RATES**

RH 01018819

SUBJECT OF HEARING

California Insurance Commissioner Harry W. Low will hold a public hearing to consider the rate application of the California Automobile Assigned Risk Plan ("CAARP") to maintain current rates for the California Low Cost Automobile Insurance Program. Premium rates are specified in the program's Plan of Operations, approved by the Commissioner. California Code of Regulations, Title 10, Chapter 5, Section 2498.6 references this plan.

**AUTHORITY TO ADOPT RATES
AND REFERENCE**

The Insurance Commissioner will consider the proposed rates pursuant to the authority vested in him by California Insurance Code Sections 11620, 11624, 11629.72 and 11629.92. Premium rates, initially set forth in Insurance Code Sections 11629.72 and 11629.92, are referenced in Section 27 of the Plan of Operations. Government Code Section 11343(a) applies to this proceeding.

HEARING DATE AND LOCATION

Notice is hereby given that a public hearing will be held to permit all interested persons the opportunity to present statements or arguments, orally or in writing, with respect to the proposed rates at the following date, time, and place:

**Date and Time: November 14, 2002
10:30 a.m.**

**Location: State Building
455 Golden Gate Avenue,
Room #5
San Francisco, California 94102**

ACCESS TO HEARING ROOM

The facilities to be used for the public hearing are accessible to persons with mobility impairments. Persons with sight or hearing impairments are requested to notify the contact person (listed below) for this hearing in order to make special arrangements, if necessary.

**WRITTEN AND/OR ORAL COMMENTS
AGENCY CONTACT PERSON**

All persons are invited to submit written comments to the Insurance Commissioner on the proposed rates prior to the public comment deadline. Comments should be addressed to the contact person for this proceeding:

Mary Ann Shulman, Staff Counsel
California Department of Insurance
Rate Enforcement Bureau
45 Fremont Street, 21st Floor
San Francisco, CA 94105
Shulmanm@insurance.ca.gov
Telephone: (415) 538-4133
Facsimile: (415) 904-5490

The backup agency contact person for this proceeding will be:

Elizabeth Mohr, Assistant Chief Counsel
California Department of Insurance
Rate Enforcement Bureau
45 Fremont Street, 21st Floor
San Francisco, CA 94105
MohrE@insurance.ca.gov
Telephone: (415) 538-4112
Facsimile: (415) 904-5490

All persons are invited to present oral and/or written testimony at the scheduled public hearing.

DEADLINE FOR WRITTEN COMMENTS

All written materials, unless submitted at the hearing, must be **received** by the Insurance Commissioner at the address listed above **no later than 5:00 p.m. on November 14, 2002**. Any written materials received after that time will not be considered. Written comments may also be submitted by e-mail and facsimile transmission.

ADVOCACY OR WITNESS FEES

Persons or groups representing the interest of consumers may be entitled to reasonable advocacy fees, witness fees, and other reasonable expenses, in accordance with the provisions of California Code of Regulations, Title 10, Sections 2662.1–2662.6 in connection with their participation in this matter. Interested persons must submit a Petition to Participate, as specified in California Code of Regulations, Title 10, Section 2661.4. The Petition to Participate must be submitted to the Commissioner at the Office of the Public Advisor at the following address:

California Department of Insurance
Office of the Public Advisor
300 Capitol Mall, Suite 1700
Sacramento, CA 95814
Telephone: (916) 492-3500

A copy of the Petition to Participate must also be submitted to the contact person for this hearing (listed above). For further information, please contact the Office of the Public Advisor.

INFORMATIVE DIGEST

California Insurance Code Sections 11629.7 through 11629.995 establish, within the California Automobile Assigned Risk Plan (CAARP), established under Section 11620 of the Insurance Code, low-cost automobile insurance pilot programs for the County of Los Angeles and the City and County of San Francisco.

Because the pilot programs are established and administered through CAARP, the Commissioner has determined to apply the CAARP procedures to the low cost automobile insurance pilot programs where appropriate and not inconsistent with the low cost automobile insurance statutes. Insurance Code Sections 11620 and 11624 require the Commissioner to hold a public hearing before amending assigned risk plan rates.

Sections 11629.7 and 11629.9 of the Insurance Code require that, after a public hearing, the Commissioner shall approve or issue a reasonable plan for the equitable apportionment, among insurers, of those persons eligible to purchase a low-cost automobile insurance policy through the pilot programs. The plan, approved by the Commissioner, is referenced in Title 10, Section 2498.6 of the California Code of Regulations. This plan contains rules and rates.

Under the pilot programs, the low-cost auto policy satisfies the financial responsibility laws and provides coverage of \$10,000 for liability for bodily injury or death to one person, subject to a cumulative limit of \$20,000 for all persons in one accident, and \$3,000 for liability for damage to property. In addition to eligibility and other requirements, the statute sets forth the initial annual premium rates. In certain cases, surcharges are added to the base rate. The statute also provides procedures for adjusting the rates.

The initial annual premium rates set forth in Sections 11629.72 and 11629.92 of the Insurance Code are \$450 per vehicle in the County of Los Angeles and \$410 per vehicle in the City and County of San Francisco. Insurance Code Sections 11629.72(c) and 11629.92(c) provide that, annually, CAARP shall submit to the Commissioner a proposed rate for approval. Accordingly, CAARP has submitted a proposal to maintain the current rates. Further details appear in the application on file with the Commissioner, which is available for review as set forth below.

COMPARABLE FEDERAL LAW

There are no comparable existing federal regulations or statutes.

LOCAL MANDATE DETERMINATION

The Insurance Commissioner has initially determined that the proposal will not result in any new program mandates on local agencies or school districts.

COST OR SAVINGS TO AGENCIES/ SCHOOL DISTRICTS/FEDERAL FUNDING

The Insurance Commissioner has initially determined that the proposal will not result in any cost or significant savings to any local agency or school district for which Part 7 (commencing with Section 17500) of Division 4 of the Government Code would require reimbursement, or in other nondiscretionary costs or savings to local agencies. Nor will the proposal affect federal funding to the state.

SIGNIFICANT STATEWIDE ADVERSE ECONOMIC IMPACT ON BUSINESSES AND THE ABILITY OF CALIFORNIA BUSINESSES TO COMPETE

Because the proposal involves rates for private passenger automobiles, the Insurance Commissioner has initially determined that the proposal will not have a significant statewide adverse economic impact directly affecting businesses, including the ability of California businesses to compete with businesses in other states. This proposal will have no effect on the creation or elimination of jobs in California, the creation of new businesses, the elimination of existing businesses in California, or the expansion of businesses in California.

COST IMPACT ON PRIVATE PERSONS OR ENTITIES

The Insurance Commissioner has initially determined that the proposal will not impact businesses, but will have a potential cost impact on private persons directly affected.

IMPACT ON HOUSING COSTS

The Insurance Commissioner has initially determined that the proposal will not affect housing costs.

SPECIFIC TECHNOLOGIES OR EQUIPMENT

The proposal would not mandate the use of specific technologies or equipment.

ALTERNATIVES

The Insurance Commissioner must determine that no reasonable alternative considered by the agency, or that has otherwise been identified and brought to the attention of the agency, would be more effective in carrying out the purpose for which the action is proposed or would be as effective and less burdensome to affected private persons than the proposed action.

The agency invites interested persons to present statements or arguments with respect to alternatives to the proposed rates at the scheduled hearing or during the written comment period.

PLAIN ENGLISH

The application describing the proposal is in plain English. However, the application itself is based on technical actuarial principles.

TEXT OF RATE APPLICATION AND INITIAL STATEMENT OF REASONS

The Department has prepared an Initial Statement of Reasons for the proposed rate application, in addition to the Informative Digest included in this notice. The Initial Statement of Reasons and this Notice of Proposed Action are available for inspection or copying, and will be provided at no charge upon request to a contact person listed above. Further details of the rate application are on file with the Commissioner and available for review as set forth below.

ACCESS TO RULEMAKING FILE

Any interested person may inspect a copy of or direct questions about the proposed rate application, the statement of reasons, the information upon which the proposal is based, and any supplemental information contained in the rulemaking file by contacting the contact person listed above. **By prior appointment**, the rulemaking file is available for inspection at 45 Fremont Street, 21st Floor, San Francisco, California 94105, between the hours of 9:00 a.m. and 4:30 p.m. Monday through Friday.

AUTOMATIC MAILING

A copy of this Notice, including the Informative Digest, is being sent to all persons on the Insurance Commissioner's mailing list.

AVAILABILITY OF DOCUMENTS ON THE INTERNET

The Initial Statement of Reasons and this Notice of Proposed Action will be published online and may be accessed through the Department's website at www.insurance.ca.gov.

TITLE 14. DEPARTMENT OF CONSERVATION

PROPOSED PERMANENT REGULATIONS

TITLE 14. NATURAL RESOURCES DIVISION 6. RESOURCES AGENCY ARTICLE 1. DEFINITIONS

&

ARTICLE 2. GENERAL PROVISIONS

NOTICE IS HEREBY GIVEN that the Department of Conservation (Department), Division of Land

Resource Protection (Division), proposes to adopt amendments to the California Code of Regulations (CCR). Commencing with Article 1, Division 6, Title 14 of the CCR, the Division will propose permanent regulations, after the consideration of all comments, objections or recommendations.

PROPOSED REGULATORY ACTION

The Department proposes to amend and add the following sections of Title 14, California Code of Regulations, Division 6, Articles 1 and 2:

Amend section 14101, 14102, 14111, 14112, 14113, 14115, and 14116.

Add section 14120.

PUBLIC HEARING SCHEDULED

November 8, 2002

10:00 a.m.

Department of Conservation

Renaissance Tower

801 'K' Street, 24th Floor

Pat Kline Conference Room

Sacramento, California 95814

The hearing will begin promptly at 10:00 a.m., and will adjourn immediately after the last public comment by those individuals present. The hearing room is wheelchair accessible. At the hearing, any person may present statements or arguments, orally or in writing, relevant to the proposed action described in the Informative Digest. The Department requests, but does not require, that persons who make oral comments at the hearing also submit a written copy of their testimony at the hearing.

SUBMITTING WRITTEN COMMENTS

The written comment period permits any interested person, or their authorized representative, to submit written comments addressing the proposed amendment to the Department. Written comments that offer a recommendation and/or objection, or support the proposed adoption or amendment, should indicate the adopted or amended section to which the comment or comments are directed. Written comments should be sent to the Department and received before the close of the public comment period, no later than 5:00 p.m. on November 8, 2002. Written comments that are received by the Department after the close of the public comment period, will not be responded to in the rulemaking file. Submit your written comments to: Tim Bryant, Division of Land Resource Protection, 801 'K' Street, MS 13-71, Sacramento, CA, 95814. During the 45-day comment period, written comments may also be e-mailed to Tim Bryant at tbryant@consrv.ca.gov, or faxed to Tim Bryant at (916) 327-3430.

INFORMATION IS AVAILABLE
UPON REQUEST

Copies of the express terms of the proposed action, the initial statement of reasons and all of the information upon which this proposal is based are available upon request. The rulemaking file is available to the public for review during normal business hours at the Division of Land Resource Protection, 801 "K" Street, 13th Floor, Sacramento, California. Please contact Tim Bryant at (916) 324-0850 for additional information regarding this action. The backup agency contact person for this rulemaking file is Anastasia Baskerville, who may be contacted at (916) 323-6733. Questions regarding the substance of this proposed action should be directed to Tim Bryant or Anastasia Baskerville.

SUBSTANTIAL REVISIONS WILL
REQUIRE A RENOTICE

Following a public hearing, the Department will adopt the regulations without further notice. If the Department chooses to substantially alter or revise the proposed regulatory action, a renote will be issued and the revised version of the proposed text of the regulations will be made available to the public for an additional comment period of fifteen days. Only those persons who have provided names and addresses to the Department and were present at the hearings, submitted written or oral comments or requested notification of revisions will be sent renotices.

INFORMATIVE DIGEST/POLICY
STATEMENT OVERVIEW

The Open Space Subvention Act of 1971 partially reimburses local governments for administrative costs and foregone tax revenue resulting from participation in the Williamson Act and other enforceable restriction programs. The Secretary of the Resources Agency, as provided by Government Code section 12824, has delegated to the Department of Conservation (Department) the primary responsibility for the administration and enforcement of the Open Space Subvention Act (OSSA) and the regulations promulgated thereunder. Consequently, the Department has adopted regulations, in accordance with the requirements specified in the Administrative Procedure Act, necessary to establish requirements for implementing the Open Space Subvention Act.

The procedure for reimbursing participating local governments is outlined in the OSSA and further clarified in the regulations adopted by the Department. Local governments report annually to the Department the number of acres of land under their regulatory jurisdiction that are eligible for subvention reimbursement. Upon receiving the eligibility information, the Department records the enrollment changes, verifies

the accuracy of the reported acreage data, and certifies the subvention entitlement amount to the Controller's Office.

Under existing law, the Department has the authority to deny subvention payments based on lack of eligibility or to make adjustments to rectify past discrepancies. Existing law is unclear as to when and which denials trigger due process. These amendments provide applicants with an opportunity for an informal hearing, specify how and when the applicant requests a hearing, and set forth the hearing procedure invoked by the Department.

Existing law does not specify whether and what types of agricultural conservation easements are eligible for subvention payments. These amendments would interpret and make specific the types of agricultural conservation easements eligible for payments. Parallel modifications would be reflected on the application form.

Existing regulations are inconsistent with statute, which requires the Department of Conservation to determine eligibility for prime agricultural land subvention payments on an annual basis. These amendments would harmonize the regulations with the statute regarding annual eligibility based on the most current valuation data.

Existing regulations require local governments to retain Williamson Act contract records for three years, which does not allow the Department of Finance to effectively audit local governments for compliance with the Open Space Subvention Act. These amendments would extend the time local governments are required to retain contract records after contract termination in a manner consistent with the Department of Finance's audit cycle and with the non-renewal period in statute.

Existing regulations do not reflect changes that have been made to the Revenue and Tax Code regarding valuation of enforceably restricted land. These amendments conform the Open Space Subvention Act regulations regarding eligibility to reflect Revenue and Tax Code sections pertaining to valuation of enforceably restricted lands.

The remainder of the amendments are non-substantive in nature and include deletion of repealed code sections, updating authority and reference citations, and updating the application form.

AUTHORITY

These regulations are submitted pursuant to the Department's rulemaking authority under section 65570 of the Government Code.

REFERENCE

Government Code sections 16144 and 16146.

LOCAL MANDATE

The Williamson Act and Open Space Subvention Act are voluntary programs; as such, the Department has determined that the proposed action imposes no mandate upon local agencies or school districts and therefore requires no reimbursement pursuant to section 17561 of the Government Code.

COST ESTIMATES

The proposed regulations will not cause any costs or savings to state agencies. The Department has also determined that the proposed action causes no significant costs or savings to local agencies or school districts, and no reimbursement is required under Government Code section 17561. The proposal does not impose any other nondiscretionary cost or savings upon local agencies, nor does it affect federal funding to the State. Finally, the Department has determined that the proposal will have no impact on housing costs.

ALTERNATIVE STATEMENT

The Department must determine that no reasonable alternative considered by the agency, or that has otherwise been identified and brought to the attention of the agency, would be more effective in carrying out the purpose for which the action is proposed, or would be as effective and less burdensome to affected private persons than the proposed action.

ASSESSMENT OF POTENTIAL ADVERSE ECONOMIC IMPACT ON BUSINESS

The Department has made an initial determination that these proposed regulations will have no significant statewide adverse economic impact directly affecting businesses, including the ability of California businesses to compete with businesses in other states.

ASSESSMENT OF COST IMPACT ON REPRESENTATIVE PRIVATE PERSONS OR BUSINESSES

The Department is not aware of any cost impacts that a representative private person or business would necessarily incur in reasonable compliance with the proposed action.

ASSESSMENT REGARDING THE AFFECT ON JOBS OR BUSINESS

The proposed regulations will not have an impact on the creation or elimination of existing businesses or jobs within the State of California, or on the expansion of businesses currently doing business in the State of California.

EFFECT ON SMALL BUSINESS

The Department has determined that the proposed regulations will not affect small business. The proposed regulations do not regulate small business, require reports or impose costs.

FEDERAL REGULATIONS/STATUTE IMPACT

The proposed regulations do not affect any Federal regulations or statutes. The Department's review of the Solid Waste Disposal Act and Code of Federal Regulations indicates no related similarities or differences.

TECHNICAL, THEORETICAL, OR EMPIRICAL STUDIES, REPORTS, OR DOCUMENTS

The Department relied on documents from the Board of Equalization for its proposed changes to section 14112(d). The Department relied on technical expertise, recommendations and documents from the Department of Finance for its proposed changes to section 14114.

FINAL STATEMENT OF REASONS

Upon completion, the Department's Final Statement of Reasons will be made available and copies may be requested from the contact person named in the notice or may be accessed on the Department's website noted below.

ACCESSING INFORMATION REGARDING THIS FILE ON THE DEPARTMENT OF CONSERVATION'S WEBSITE

The text of the proposed regulations, the Notice of Proposed Action, the Initial Statement of Reasons and the Final Statement of Reasons, when available for review, will be on the Department of Conservation website at: www.conservation.ca.gov.

TITLE 14. SAN FRANCISCO BAY CONSERVATION AND DEVELOPMENT COMMISSION

NOTICE OF PROPOSED RULEMAKING TO ADD SECTION 11021 THAT IDENTIFIES AREAS THAT ARE NOT AVAILABLE FOR SITING NEW THERMAL POWER PLANTS THAT GENERATE 50 MEGAWATTS OR MORE OF ELECTRICITY AND ANCILLARY FACILITIES

Time, Place and Nature of Proceedings: The San Francisco Bay Conservation and Development Commission gives notice that it will hold a public hearing on Thursday, November 7, 2002, in the Metro Center Auditorium, Main Floor, 101 Eighth Street, Oakland, California concerning the proposed addition of Section 11021 to Division 5 of Title 14 of the California Code of Regulations that would identify areas within the Commission's jurisdiction that are not available for siting new thermal power plants that generate 50 megawatts or more of electricity and ancillary facilities.

AUTHORITY AND REFERENCE

Authority: Sections 66632(f) and 66645, Government Code; and Section 29201(e), Public Resource Code.

Reference: Section 66645, Government Code; the *San Francisco Bay Plan*; the *Suisun Marsh Protection Plan*; and Sections 25507 and 25523, Public Resource Code.

INFORMATIVE DIGEST/POLICY STATEMENT OVERVIEW

The Commission is required by California Government Code Section 66645 to identify areas within its jurisdiction where power plants may not be sited and to update this list. Currently, the Commission does not have a regulation that identifies these sites. The proposed regulation would establish areas at which power plants and ancillary facilities may and may not be sited. The categories will be based on an analysis of the Commission's laws and policies.

Mandate to Local Agency or School District: None

Costs to Local Agency or School District: None

Other Nondiscretionary Costs or Savings Imposed upon Local Agencies: None

Cost or Savings to State Agencies or in Federal Funding to the State: None

Significant Effect on Housing Costs: None

Significant Statewide Adverse Economic Impact Directly Affecting Business, Including the Ability of California Businesses to Compete with Businesses in Other States: None, because the proposed regulation only identifies areas that, based on analysis of the Commission's laws and policies, would not be available for the construction of thermal power plants that generate 50 megawatts or more of electricity. The proposed regulation does not preclude power plants nor does it create any new policy or impose any new requirement on business.

Creation or Elimination of Jobs or Business, or Expansion of Business, in California: The Commission has made an assessment that the proposed regulations would not (1) create or eliminate jobs within California, (2) create new businesses or eliminate existing businesses within California, or (3) affect the expansion of businesses currently doing business within California.

Business Reporting Requirements: None.

Cost Impact on Representative Persons or Businesses: The agency is not aware of any cost impacts that a representative private person or business would necessarily incur in reasonable compliance with the proposed action.

Effect on Small Business: None. The regulation would only identify areas that, based on analysis of the Commission's existing laws and policies, would not be available for the construction of power plants. The proposed regulation does not create any new policy or impose any new requirement on business.

No-More-Effective Alternative: The Commission must determine that no reasonable alternative that it considered or that has otherwise been identified or brought to its attention would be more effective in carrying out the purpose for which the regulation is proposed or would be as effective and less burdensome to affected private persons than the proposed regulation.

Contact Person and Backup: Inquiries and substantive questions on the proposed regulation should be directed to Ellen M. Sampson, Staff Counsel, San Francisco Bay Conservation and Development Commission, 50 California Street, Suite 2600, San Francisco, California 94111 or to Ms. Sampson at (415) 352-3610 or email at ellens@bcdc.ca.gov. If Ms. Sampson is unavailable, please contact Lindy Lowe at the above address or at (415) 352-3645 or email at lindyl@bcdc.ca.gov.

Availability of Express Terms of Proposed Regulation and Initial Statement of Reasons: The text of the proposed regulation, an initial statement of reasons for the changes and all supporting information are available for review at the Commission's office pursuant to Government Code Section 11346.5. Copies of the text and initial statement of reasons can be obtained by contacting Ms. Sampson (see Contact Person above) or by visiting the Commission's web site at www.bcdc.ca.gov from which the documents may be reviewed and printed.

Date by Which Written Comments Must be Received and Where Directed: Written comments submitted in advance of the public hearing on this matter should be directed to Ms. Sampson at the Commission's office (see Contact Person, above) and must be received no later than Wednesday, November 6, 2002, at 5:00 p.m. Written comments will be accepted on Thursday November 7, 2002, during the public hearing on this matter at the time and place listed above. The Commission may close the public comment period at the close of the public hearing on November 7, 2002.

Availability of Changes to Proposed Regulation: Pursuant to Government Code Section 11346.8, the full text of substantial changes to the proposed section, if any, shall be made available to the public for at least 15 days prior to the date on which the Commission determines whether to adopt the proposed regulation.

Rulemaking File: A rulemaking file for this rulemaking activity is maintained at the Commission's office and is available for public review during the Commission's normal business hours (Monday through Friday, 9 a.m. to 5 p.m.). Requests to review the rulemaking file should be directed to Ms. Sampson (see Contact Person above).

Final Statement of Reasons: Once prepared, the final statement of reasons will be available as part of the Commission's rulemaking file and may be reviewed at the Commission's offices or obtained by calling Ms. Sampson (see Contact Person above).

Internet Access: The proposed regulation and related documents will be available for review and printing on the Commission's web site at www.bcdc.ca.gov.

TITLE 16. DENTAL BOARD OF CALIFORNIA

NOTICE IS HEREBY GIVEN that the Dental Board of California is proposing to take the action described in the Informative Digest. Any person interested may present statements or arguments orally or in writing relevant to the action proposed at a hearing to be held at the **Embassy Suites LAX North, 9801 Airport Blvd., Los Angeles, California 90045. The telephone number is (310) 215-1000. The hearing will be held at 1:30 pm, November 8, 2002.** Written comments, including those sent by mail, facsimile, or e-mail to the addresses listed under Contact Person in this Notice, must be received by the Dental Board of California at its office not later than 5:00 p.m. on November 4, 2002, or must be received by the Dental Board of California at the hearing. The Dental Board of California, upon its own motion or at the instance of any interested party, may thereafter adopt the proposals substantially as described below or may modify such proposals if such modifications are sufficiently related to the original text. With the exception of technical or grammatical changes, the full text of any modified proposal will be available for 15 days prior to its adoption from the person designated in this Notice as contact person and will be mailed to those persons who submit written or oral testimony related to this proposal or who have requested notification of any changes to the proposal.

AUTHORITY AND REFERENCE

Pursuant to the authority vested by Section 1614 of the Business and Professions Code, and to implement, interpret or make specific Sections 1614 and 1759 of said Code, the Dental Board of California is considering changes to Division 10 of Title 16 of the California Code of Regulations as follows:

INFORMATIVE DIGEST/POLICY STATEMENT OVERVIEW

Amend California Code of Regulations Section 1088

Business and Professions Code Section 1759 provides that the Board may prescribe by regulation the duties that Registered Dental Hygienists are allowed to perform.

This regulatory proposal would amend Section 1088 of the California Code of Regulations to allow Registered Dental Hygienists to, in addition to other duties specified, perform transepithelial biopsies, otherwise known as "brush" biopsies.

FISCAL IMPACT ESTIMATES

Fiscal Impact on Public Agencies Including Costs or Savings to State Agencies or Costs/Savings in Federal Funding to the State: None

Nondiscretionary Costs/Savings to Local Agencies: None

Local Mandate: None

Cost to Any Local Agency or School District for Which Government Code Section 17561 Requires Reimbursement: None

Business Impact:

The board has made an initial determination that the proposed regulatory action would have no significant statewide adverse economic impact directly affecting business, including the ability of California businesses to compete with businesses in other states.

Impact on Jobs/New Businesses:

The Dental Board of California has determined that this regulatory proposal will not have any impact on the creation of jobs or new businesses or the elimination of jobs or existing businesses or the expansion of businesses in the State of California.

Cost Impact on Representative Private Person or Business:

The Dental Board of California is not aware of any cost impacts that a representative private person or business would necessarily incur in reasonable compliance with the proposed action.

Effect on Housing Costs: None

EFFECT ON SMALL BUSINESS

The Dental Board of California has determined that the proposed regulations would not affect small businesses because allowing a registered dental hygienist to perform a transepithelial biopsy would obviously not affect small businesses, or any business.

CONSIDERATION OF ALTERNATIVES

The Dental Board of California must determine that no reasonable alternative that it considered or that has otherwise been identified and brought to its attention would either be more effective in carrying out the

purpose for which the action is proposed or would be as effective and less burdensome to affected private persons than the proposal described in this Notice.

Any interested person may present statements or arguments orally or in writing relevant to the above determinations at the above-mentioned hearing.

INITIAL STATEMENT OF REASONS AND INFORMATION

The Dental Board of California has prepared an initial statement of the reasons for the proposed action and has available all the information upon which the proposal is based.

TEXT OF PROPOSAL

Copies of the exact language of the proposed regulations and of the initial statement of reasons, and all of the information upon which the proposal is based, may be obtained at the hearing or prior to the hearing upon request from the Dental Board of California, at 1432 Howe Avenue, Suite 85, Sacramento, California, 95825.

AVAILABILITY AND LOCATION OF THE FINAL STATEMENT OF REASONS AND RULEMAKING FILE

All the information upon which the proposed regulations are based is contained in the rulemaking file which is available for public inspection by contacting the person named below.

You may obtain a copy of the final statement of reasons once it has been prepared, by making a written request to the contact person named below or by accessing the website listed below.

CONTACT PERSON

Inquiries or comments concerning the proposed administrative action may be addressed to:

Name: Errol G. Chisom
Address: 1432 Howe Avenue, Suite 85
Sacramento, CA 95825
Telephone No.: (916) 263-2300 ext. 2327
Fax No.: (916) 263-2140
E-Mail Address: errol_chisom@dca.ca.gov

The backup contact person is:

Name: Karen Wyant
Address: 1428 Howe Avenue, Suite 55
Sacramento, CA 95825
Telephone No.: (916) 263-2595 ext. 209
Fax No.: (916) 263-2709
Email Address: karenwyant@dca.ca.gov

Inquiries concerning the substance of the proposed regulations may be directed to Errol Chisom, (916) 263-2300 ext. 2327.

Website Access [if you have a website]: Materials regarding this proposal can be found at www.dbc.ca.gov [website].

TITLE 16. DENTAL BOARD OF CALIFORNIA

NOTICE IS HEREBY GIVEN that the Dental Board of California is proposing to take the action described in the Informative Digest. Any person interested may present statements or arguments orally or in writing relevant to the action proposed at a hearing to be held at the **Embassy Suites LAX-North, 9801 Airport Blvd. Los Angeles California, 90045. The telephone number is (310) 215-1000. The hearing will be held at 1:30 pm, November 8, 2002.** Written comments, including those sent by mail, facsimile, or e-mail to the addresses listed under Contact Person in this Notice, must be received by the Dental Board of California at its office not later than 5:00 p.m. on November 4, 2002 or must be received by the Dental Board of California at the hearing. The Dental Board of California, upon its own motion or at the instance of any interested party, may thereafter adopt the proposals substantially as described below or may modify such proposals if such modifications are sufficiently related to the original text. With the exception of technical or grammatical changes, the full text of any modified proposal will be available for 15 days prior to its adoption from the person designated in this Notice as contact person and will be mailed to those persons who submit written or oral testimony related to this proposal or who have requested notification of any changes to the proposal.

AUTHORITY AND REFERENCE

Pursuant to the authority vested by Sections 1614 of the Business and Professions Code, and to implement, interpret or make specific Section 1753 of said Code, the Dental Board of California is considering changes to Division 10 of Title 16 of the California Code of Regulations as follows:

INFORMATIVE DIGEST/POLICY STATEMENT OVERVIEW

Amend California Code of Regulations Section 1070
Add California Code of Regulations Section 1070.2

Section 1614 of the Business and Professions Code authorizes the Dental Board of California to adopt regulations relating to the establishment of standards for the approval of dental colleges. Section 1753 of said code requires that applicants for registered dental assistant licensure must, as an alternative, have graduated from an educational program in dental assisting approved by the Board.

Existing regulations 1070 and 1070.1, interpreting and making specific Section 1753, establishes the requirements that registered dental assisting educational programs must meet in order to obtain and retain approval by the board. The proposed changes to

sections 1070 and 1070.1, and the addition of section 1070.2: (1) formalize the standards contained in the program application packet and accompanying guidelines which have been used for many years; (2) better protect consumers, and: (3) reflect current dental educational needs and trends.

FISCAL IMPACT ESTIMATES

Fiscal Impact on Public Agencies Including Costs or Savings to State Agencies or Costs/Savings in Federal Funding to the State: None

Nondiscretionary Costs/Savings to Local Agencies: None

Local Mandate: No

Cost to Any Local Agency or School District for Which Government Code Section 17561 Requires Reimbursement: None

Business Impact:

The board has made an initial determination that the proposed regulatory action would have no significant statewide adverse economic impact directly affecting business, including the ability of California businesses to compete with businesses in other states.

The following relevant data were relied upon in making the above determination:

These proposed changes would formalize board guidelines that have been followed by registered dental assistant educational programs for many years. Therefore, such programs would incur no new costs or would be otherwise adversely affected by implementation of the proposed changes.

Impact on Jobs/New Businesses:

The Dental Board of California has determined that this regulatory proposal will not have any impact on the creation of jobs or new businesses or the elimination of jobs or existing businesses or the expansion of businesses in the State of California.

Cost Impact on Representative Private Person or Business:

The Dental Board of California is not aware of any cost impact that a representative private person or business would necessarily incur in reasonable compliance with the proposed action.

Effect on Housing Costs: None

EFFECT ON SMALL BUSINESS

The Dental Board of California has determined that the proposed regulations would not affect small businesses, because the proposed changes formalize board guidelines that have been followed by affected registered dental assisting educational programs for many years. Therefore, such programs would incur no new costs or be otherwise adversely affected by implementation of the proposed changes.

CONSIDERATION OF ALTERNATIVES

The Dental Board of California must determine that no reasonable alternative that it considered or that has otherwise been identified and brought to its attention would either be more effective in carrying out the purpose for which the action is proposed or would be as effective and less burdensome to affected private persons than the proposal described in this Notice.

Any interested person may present statements or arguments orally or in writing relevant to the above determinations at the above-mentioned hearing.

INITIAL STATEMENT OF REASONS AND INFORMATION

The Dental Board of California has prepared an initial statement of the reasons for the proposed action and has available all the information upon which the proposal is based.

TEXT OF PROPOSAL

Copies of the exact language of the proposed regulations and of the initial statement of reasons, and all of the information upon which the proposal is based, may be obtained at the hearing or prior to the hearing upon request from the Dental Board of California at 1432 Howe Avenue, Suite 85, Sacramento, California 95825.

AVAILABILITY AND LOCATION OF THE FINAL STATEMENT OF REASONS AND RULEMAKING FILE

All the information upon which the proposed regulations are based is contained in the rulemaking file which is available for public inspection by contacting the person named below.

You may obtain a copy of the final statement of reasons once it has been prepared, by making a written request to the contact person named below

CONTACT PERSON

Inquiries or comments concerning the proposed administrative action may be addressed to:

Name: Errol G. Chisom
Address: 1432 Howe Avenue, Suite 85
Sacramento, CA 95825
Telephone No.: (916) 263-2300 ext. 2327
Fax No.: (916) 263-2140
E-Mail Address: errol_chisom@dca.ca.gov

The backup contact person is:

Name: Karen Wyant
Address: 1428 Howe Avenue, Suite 55
Sacramento, CA 95825
Telephone No.: (916) 263-2595 ext. 209
Fax No.: (916) 263-2709
E-Mail Address: karen_wyant@dca.ca.gov

Inquiries concerning the substance of the proposed regulations may be directed to Errol Chisom, (916) 263-2300 ext. 2327

Materials regarding this proposal can be found at www.dbc.ca.gov, website.

TITLE 16. MEDICAL BOARD OF CALIFORNIA

NOTICE IS HEREBY GIVEN that the Medical Board of California (hereinafter referred to as "the Board") is proposing to take the action described in the Informative Digest. Any person interested may present statements or arguments orally or in writing relevant to the action proposed at a hearing to be held at Hilton Hotel-Mission Valley, San Diego, California, at 10 a.m., on November 8, 2002. Written comments, including those sent by mail, facsimile, or e-mail to the addresses listed under Contact Person in this Notice, must be received by the Board at its office not later than 5:00 p.m. on November 4, 2002 or must be received by the Board at the hearing. The Board, upon its own motion or at the instance of any interested party, may thereafter adopt the proposals substantially as described below or may modify such proposals if such modifications are sufficiently related to the original text. With the exception of technical or grammatical changes, the full text of any modified proposal will be available for 15 days prior to its adoption from the person designated in this Notice as contact person and will be mailed to those persons who submit written or oral testimony related to this proposal or who have requested notification of any changes to the proposal.

AUTHORITY AND REFERENCE

Pursuant to the authority vested by Section 2018 of the Business and Professions Code, and to implement, interpret or make specific Sections 2065, 2066, 2096, 2102, 2103, 2135 and 2428 of said Code, the Medical Board of California is considering changes to Division 5 of Title 16 of the California Code of Regulations as follows:

INFORMATIVE DIGEST/POLICY STATEMENT OVERVIEW

Amend Section 1320

Existing regulations describing the postgraduate training time limits do not provide for guest rotations, which are an important component of training programs.

This proposed amendment to Section 1320 would allow persons to come to California to participate in guest rotations for up to 90 days. It would also make

the regulations conform to the statutory changes made regarding the time limitations for international medical school graduates.

FISCAL IMPACT ESTIMATES

Fiscal Impact on Public Agencies Including Costs or Savings to State Agencies or Costs/Savings in Federal Funding to the State: None

Nondiscretionary Costs/Savings to Local Agencies: None

Local Mandate: None

Cost to Any Local Agency or School District for Which Government Code Sections 17500 through 17630 Requires Reimbursement: None

Business Impact:

The board has made an initial determination that the proposed regulatory action would have no significant statewide adverse economic impact directly affecting business, including the ability of California businesses to compete with businesses in other states.

AND

The following studies/relevant data were relied upon in making the above determination:

The proposed amendment is simply an attempt to codify an educational option often utilized by most teaching hospitals in California. This would not place any new restrictions or requirements on businesses and individuals. In fact, it expands options available to the teaching hospitals and out-of-state medical residents.

Impact on Jobs/New Businesses:

The Medical Board of California has determined that this regulatory proposal will not have a significant impact on the creation of jobs or new businesses or the elimination of jobs or existing businesses or the expansion of businesses in the State of California.

Cost Impact on Representative Private Person or Business:

The Medical Board of California is not aware of any cost impacts that a representative private person or business would necessarily incur in reasonable compliance with the proposed action.

Effect on Housing Costs: None

EFFECT ON SMALL BUSINESS

The Medical Board of California has determined that the proposed regulations would not affect small businesses. The proposed amendment is simply an attempt to codify an educational option often utilized by most of California's teaching hospitals, which are not small businesses.

CONSIDERATION OF ALTERNATIVES

The Medical Board of California must determine that no reasonable alternative which it considered or that has otherwise been identified and brought to its attention would either be more effective in carrying

out the purpose for which the action is proposed or would be as effective and less burdensome to affected private persons than the proposal described in this Notice.

Any interested person may present statements or arguments orally or in writing relevant to the above determinations at the above-mentioned hearing.

INITIAL STATEMENT OF REASONS AND INFORMATION

The Medical Board of California has prepared an initial statement of the reasons for the proposed action and has available all the information upon which the proposal is based. Copies of the initial statement of reasons and all of the information upon which the proposal is based may be obtained from the person designated in this Notice under Contact Person or by accessing the website listed below.

TEXT OF PROPOSAL

Copies of the exact language of the proposed regulations may be obtained at the hearing or prior to the hearing upon request from the person designated in this Notice under Contact Person or by accessing the website listed below.

AVAILABILITY AND LOCATION OF THE FINAL STATEMENT OF REASONS AND RULEMAKING FILE

All the information upon which the proposed regulations are based is contained in the rulemaking file which is available for public inspection by contacting the person designated in this Notice under Contact Person or by accessing the website listed below.

You may obtain a copy of the final statement of reasons once it has been prepared, by making a written request to the person designated in this Notice under Contact Person or by accessing the website listed below.

CONTACT PERSON

Inquiries or comments concerning the proposed administrative action may be addressed to:

Name: Kevin A. Schunke
Address: Medical Board of California
1430 Howe Ave, Suite 92
Sacramento, CA 95825
Telephone No.: (916) 263-2368
Fax No.: (916) 263-2387
e-mail: kschunke@medbd.ca.gov

The backup contact person is:

Name: Linda Whitney
Address: Medical Board of California
1430 Howe Ave, Suite 92
Sacramento, CA 95825

Telephone No.: (916) 263-2389
Fax No.: (916) 263-2387
e-mail: lwhitney@medbd.ca.gov

Inquiries concerning the substance of the proposed regulations may be directed to:

Name: Cindy James, Chief, Licensing
Section
Medical Board of California
1428 Howe Avenue, Suite 56
Sacramento, CA 95825

Telephone No.: (916) 263-2344
Fax No.: (916) 263-2387
e-mail: cjames@medbd.ca.gov

Website Access [if you have a website]: Materials regarding this proposal can be found at www.medbd.ca.gov.

TITLE 18. FRANCHISE TAX BOARD

As required by Government Code section 11346.4, this is notice of intention to adopt amendments to California Code of Regulations, title 18, section 25137-2, subsection, pertaining to the apportionment formula to be used when a taxpayer has elected to recognize income under one of the long-term contract methods of accounting authorized by Treasury Regulation 1.451-3 or Internal Revenue Code section 460. There will not be a public hearing unless requested by an interested person at least 15 days before the close of the written comment period. Any request for a public hearing should be submitted to the agency officer named below.

WRITTEN COMMENT PERIOD

Written comments will be accepted until 5:00 p.m., November 8, 2002. All relevant matters presented will be considered before the proposed regulatory action is taken. Comments should be submitted to the agency officer named below.

AUTHORITY & REFERENCE

Revenue and Taxation Code section 19503 authorizes the Franchise Tax Board to prescribe regulations necessary for the enforcement of Part 10 (commencing with Section 17001), Part 10.2 (commencing with Section 18401), Part 10.7 (commencing with Section 21001) and Part 11 (commencing with Section 23001) of the Revenue and Taxation Code. The proposed regulatory action interprets, implements, and makes specific Revenue and Taxation Code section 25137.

INFORMATIVE DIGEST/POLICY STATEMENT OVERVIEW

When a multistate taxpayer that manufactures or fabricates tangible personal property elects one of the methods of long-term contract accounting provided by

Treasury Regulation 1.451-3 or Internal Revenue Code section 460 (as incorporated into the Revenue and Taxation Code by section 24673.2) the standard apportionment formula provided by Revenue and Taxation Code section 25128 may not fairly represent the business activity of the taxpayer in California relative to the income generated under the contract because, under the long term contract methods of accounting, income, is generally recognized in a year other than the year in which the performance required to earn that income occurred. Thus there will be a mismatch between the factors used to apportion the income and the income being apportioned.

Revenue and Taxation Code section 25137 provides for the use of an alternative apportionment formula when the standard formula does not fairly represent the extent of the taxpayer's business in California. The existing regulation at Title 18, California Code of Regulations section 25137-2 provides for the use of an alternative formula when construction is performed under a long-term contract and the taxpayer has elected one of the long-term contract methods of accounting provided by Treasury Regulation 1.451-3 or Internal Revenue Code section 460. However, the regulation does not cover situations in which tangible personal property is manufactured or fabricated under a long-term contract.

Under the decision of the State Board of Equalization in *Appeal of Fluor Corporation*, 95-SBE-009, August 31, 1995, if it is asserted that the apportionment formula provided by Revenue and Taxation Code section 25128 does not fairly reflect the business done by the taxpayer in California, the party seeking to deviate from the standard formula must demonstrate that the effect of the standard formula is unfair (that it results in "distortion") and that, in the case at bar, it results in that degree of "distortion" that has been recognized as permitting the application of an alternative formula under Revenue and Taxation Code section 25137. If, however, the facts of the case fit the facts set forth in one of the regulations adopted under the authority of section 25137, then, under *Appeal of Fluor*, the formula set forth in the regulation becomes the standard formula and it is not necessary to show that the statutory formula results in any particular degree of "distortion". Thus, if a fabricator or manufacturer of tangible personal property were to elect a long-term method of contract accounting it would be necessary for the taxpayer or the Franchise Tax Board to demonstrate that the "distortion" resulting from the application of the statutory formula was sufficient under the relevant decisions of the courts and the Board of Equalization to permit the use of an alternative formula. This process requires legal research and analysis and the results are open to dispute. However, if a construction contractor with the

same financial facts elected to account for a long-term construction contract in the same manner, the special formula provided by the regulation at 25137-2 would apply and it would not be necessary to demonstrate that the standard formula did not fairly represent the business of the taxpayer in California.

This proposed amendment to the regulation will apply the special apportionment formula already provided for long-term construction contracts to long-term contracts for the manufacture or fabrication of tangible personal property. It will provide that income recognized under such a contract will be apportioned using factors representative of the years during which work was performed under the contract. It will also provide for exclusion from the property factor of the apportionment formula of work in process inventory for which the taxpayer has received payment.

Additionally, the proposed amendments will remove from the regulation the specific descriptions of the completed contract and percentage of completion method of long-term contract accounting methods provided by the Treasury Regulation. It proposes to replace the descriptions with references to the appropriate subsections of the Treasury Regulation. The proposed amendments also modify the language of the regulation to conform it to the fact that Revenue and Taxation Code section 25128 now provides for a double weighted sales factor.

There is no logical reason for treating receipts from long term construction contracts differently from receipts generated by long-term contracts for the fabrication or manufacture of tangible personal property.

DISCLOSURES REGARDING THE PROPOSED REGULATORY ACTION

Mandate on local agencies and school districts: None.

Cost or savings to any state agency: None.

Cost to any local agency or school district that must be reimbursed under Part 7, commencing with Government Code Section 17500, of Division 4: None.

Other non-discretionary cost or savings imposed upon local agencies: None.

Cost or savings in federal funding to the state: None.

The Board has made an initial determination that there will be no significant statewide adverse economic impact directly affecting businesses including the ability of California businesses to compete with businesses in other states.

Cost impacts on representative private persons or businesses: The Board is not aware of any cost impacts that a representative private person or business would necessarily incur in reasonable compliance with the proposed action.

Effect on the creation or elimination of jobs in the state: None.

Effect on the creation of new businesses or elimination of existing businesses within the state: None.

Effect on the expansion of businesses currently doing business within the state: None.

Effect on small business: None. The proposed amendment only applies to multistate corporate taxpayers that are not typically small businesses and because the regulation affects small businesses in the same manner as it affects other businesses.

Significant effect on housing costs: None.

CONSIDERATION OF ALTERNATIVES

In accordance with Government Code section 11346.5, subdivision (a)(13), the Board must determine that no reasonable alternative it considered or that has otherwise been identified and brought to its attention it would be more effective in carrying out the purpose for which the action is proposed or would be as effective and less burdensome to affected private persons than the proposed regulatory action.

AVAILABILITY OF INITIAL STATEMENT OF REASONS AND TEXT OF PROPOSED REGULATIONS

The express terms of the proposed regulatory action, as well as the initial statement of reasons and all information upon which the proposed regulatory action is based, are available upon request from the agency officer named below. When the final statement of reasons is available, it can be obtained by contacting the agency officer named below, or by accessing the Franchise Tax Board's website at <http://www.ftb.ca.gov/>.

CHANGE OR MODIFICATION OF ACTIONS

The proposed regulatory action may be adopted after consideration of any comments received during the comment period.

The regulation may also be adopted with modifications if the changes are nonsubstantive or the resulting regulation is sufficiently related to the text made available to the public so that the public was adequately placed on notice that the regulation as modified could result from that originally proposed. The text of the regulation as modified will be made available to the public at least 15 days prior to the date on which the regulation is adopted. Requests for copies of any modified regulations should be sent to the attention of the agency officer named below.

ADDITIONAL COMMENTS

If a hearing is held, the hearing room will be accessible to persons with physical disabilities. Also, any person who is in need of a language interpreter, including sign language, should contact the agency officer named below at least two weeks prior to the hearing so that the services of an interpreter may be arranged.

CONTACT

All inquiries concerning this notice or the hearing should be directed to Colleen Berwick at the Franchise Tax Board, Legal Branch, P.O. Box 1720, Rancho Cordova, CA 95741-1720; Tel.: (916) 845-3306; Fax: (916) 845-3648; E-Mail: colleen.berwick@ftb.ca.gov, or the designated backup, Doug Powers; Tel.: (916) 845-4962; Fax: (916) 845-3648; E-Mail: doug.powers@ftb.ca.gov. In addition, all questions on the substance of the proposed regulation can be directed to Karl Grossenbacher; Tel.: (916) 845-6822. This notice, the initial statement of reasons, and the express terms of the proposed regulation are also available at the Franchise Tax Board's website at <http://www.ftb.ca.gov/>.

TITLE 22. DEPARTMENT OF TOXIC SUBSTANCES CONTROL

45-DAY PUBLIC NOTICE AND COMMENT PERIOD

Phase I Environmental Site Assessments (Schools)

Department Reference Number: R-02-01

NOTICE IS HEREBY GIVEN that the Department of Toxic Substances Control (DTSC) proposes to add sections 69100 through 69107, including chapter 51.5, to division 4.5 of title 22, California Code of Regulations.

PUBLIC HEARING AND WRITTEN COMMENT PERIOD

DTSC will hold a public hearing on the proposed regulations at 10:00 a.m. on November 4, 2002 in the Central Valley Auditorium, 2nd Floor, 1001 "I" Street, Sacramento, California, at which time any person may present statements or arguments orally or in writing, relevant to this proposal. Please submit written comments to the contact person listed at the end of this notice. Written comments on the rulemaking submitted no later than 5:00 p.m. on November 4, 2002 will be considered.

Representatives of DTSC will preside at the hearing. Persons who wish to speak are requested to register before the hearing. Pre-hearing registration will be conducted at the location of the hearing from 9:30 a.m. to 10:00 a.m. Registered persons will be

heard in the order of their registration. Any other person wishing to speak at the hearing will be afforded an opportunity after the registered persons have been heard.

AUTHORITY AND REFERENCE

These regulations are being proposed under the following authorities:

Health and Safety Code section 58012. This section provides DTSC with the authority to adopt and enforce rules and regulations needed for the execution of its duties.

Education Code section 17210, subdivision (g). This section authorizes DTSC to adopt final regulations that establish guidelines for Phase I Environmental Site Assessments for proposed school sites.

These regulations implement, interpret, or make specific the following:

Education Code section 17210, subdivision (g). This section specifies the requirements for conducting a Phase I Environmental Site Assessment in the absence of DTSC regulations and authorizes DTSC to adopt final regulations that establish different guidelines for Phase I Environmental Site Assessments for proposed school sites.

Education Code section 17213.1. This section specifies the role of DTSC in the Phase I environmental assessment process for proposed school sites.

INFORMATIVE DIGEST/POLICY STATEMENT OVERVIEW

The proposed regulations will benefit all school districts conducting environmental assessments. However, there are at least 11 school districts (45 school sites) that were awaiting the implementation of the emergency regulations (effective September 3, 2002) in order to expedite the completion of environmental assessments. Lead assessments of these properties must be completed prior to school construction. Under Department of General Services' State Allocation Board regulations, once school districts obtain funding, they have only eighteen months to begin school facility construction, or they risk losing these funds. These regulations will allow these school districts to submit a Phase I Addendum to DTSC for review, and proceed quickly with school construction if DTSC approves the Phase I Addendum. Use of the Phase I Addendum, would reduce their environmental review process time by at least 30 days and possibly by as much as six months. Without the emergency regulations, school districts under current law would need to prepare and submit a more extensive Preliminary Endangerment Assessment to DTSC, and go through a mandatory 30-day public review period. DTSC's evaluation of the Phase I Addendum under the emergency regulations will enable the school districts to move quickly into additional sampling and cleanup

if it is needed, and/or to proceed with school construction, and will help them to avert the potential loss of substantial state funding. Finalization of the emergency regulations is necessary to ensure the ongoing benefits of the Phase I process.

Immediate regulatory change in the environmental assessment process for school sites is also necessary to preserve the general welfare of our State, by promoting the construction of new or expanding schools, and to address severe over-crowding school facilities. These procedural changes will expedite document preparation and review timeframes, saving public resources and minimizing the cost and burden on school districts. In addition, these regulations will facilitate and clarify environmental assessment statutory requirements in the Education Code. The following is an overview of the environmental assessment review process:

In order for a school district to receive state funds for acquisition or construction of schools, a school district must complete an environmental site assessment and, if necessary, select a response action that shall at a minimum be protective of children's health, with an ample margin of safety.

DTSC has developed a number of technical guidance documents to assist school districts, consultants, and the general public in understanding the environmental review process for proposed school sites. However, there are no existing regulations establishing guidelines for Phase I Environmental Site Assessments (Phase Is) conducted at proposed school sites. Since state funding for new schools requires completion of an environmental site assessment, several school districts and other stakeholders have been involved in reviewing the proposed regulations and are awaiting their implementation. For example, the Los Angeles Unified School District and the Coalition for Adequate School Housing (a large statewide organization of about 600 school districts) have expressed interest in the status of these emergency regulations.

The existing statutory requirement is that a school district conducts a Phase I in accordance with the American Society for Testing and Materials (ASTM) standards. If the Phase I indicates the presence of hazardous materials, the school district may conduct a Preliminary Endangerment Assessment (also called a Preliminary Environmental Assessment or PEA), which includes entering into an agreement with DTSC, sampling and analyzing potential contaminants, and meeting public participation requirements. Completing a PEA is more time-consuming and costly than completing a Phase I.

The existing requirement is that when DTSC determines that a Phase I indicates potential contamination of lead in soil from lead-based paint and for

polychlorinated biphenyl (PCB) in soil from electrical transformers, the school district must conduct a PEA to determine the extent, if any, of lead or PCB contamination. These two contaminants commonly result from previously commercial or residential land uses at proposed school sites. Old structures may contain lead-based paints. Old electrical transformers may contain PCBs. Both are likely to cause surface soil contamination with lead and/or PCBs. The potential presence of these contaminants is often the only reason a PEA is required at many proposed school sites.

Based upon past experience, numerous cases have shown that the PEA indicates levels of lead or PCBs that do not pose a health risk. Nevertheless, because existing standards do not include a procedure for submitting lead and PCB samples and analytical results during the Phase I, the school district has to go through the PEA process.

The proposed regulations specify procedures for conducting a Phase I for proposed school sites and includes an Addendum for sampling and analysis for lead in soil from lead-based paint and for PCBs in soil from electrical transformers in the Phase I process.

The proposed regulations enable school districts and their proponents to include the analytical results of sampling for lead in soil from lead-based paint and for PCBs in soil from electrical transformers in the Phase I. If results of sampling for these two contaminants at a proposed school site indicate that these contaminants do not pose an excessive threat to human health or the environment under unrestricted land use, no further investigation of the site would be required by DTSC for those contaminants. Therefore, these guidelines will help expedite the environmental review process where appropriate, and allow focusing of resources where they are most needed.

These regulations propose to incorporate by reference the following documents which, because of their length and complexity, would be impractical to duplicate in the regulatory text:

(1) "American Society for Testing and Materials (ASTM) Standard Practice for Environmental Site Assessments: Phase I Environmental Site Assessment Process," ASTM Standard E-1527, adopted May 10, 2000; available from American Society for Testing and Materials, 100 Barr Harbor Drive, West Conshohocken, PA 19428-2959, (610) 832-9585; website <http://www.astm.org>.

(2) "Test Methods for Evaluating Solid Waste, Physical/Chemical Methods," EPA Publication SW-846 Third Edition, November 1986, as amended by Updates I (July, 1992), II (September, 1994), IIA (August, 1993), IIB (January, 1995), III (December, 1996), IIIA (April, 1998), IVA (January, 1998) and IVB (November, 2000); available from the

Superintendent of Documents, United States Government Printing Office, Washington, DC 20402, (202) 512-1800; website <http://www.epa.gov/SW-846/main.htm>.

(3) "USEPA Contract Laboratory Program National Functional Guidelines for Organic Data Review," EPA 540/R-94/012; February 1994, available from National Technical Information Service (NTIS), United States Department of Commerce, 5285 Port Royal Road, Springfield, VA 22161; (703) 487-4650; website <http://www.epa.gov/region09/qa/supfundclp.html>.

(4) "USEPA Contract Laboratory Program National Functional Guidelines for Inorganic Data Review," EPA 540/R-94/013; February 1994, available from National Technical Information Service (NTIS); United States Department of Commerce, 5285 Port Royal Road, Springfield, VA 22161; (703) 487-4650; website <http://www.epa.gov/region09/qa/supfundclp.html>.

(5) "Guidance on Environmental Data Verification and Data Validation," EPAQA/G-8; Peer Review Draft, June 2001, available from United States Environmental Protection Agency, Quality Staff (2811 R), 1200 Pennsylvania Avenue, NW, Washington, DC 20460; (202) 564-6830; website <http://www.epa.gov/Region10/offices/oea/epaqag8.pdf>.

CALIFORNIA ENVIRONMENTAL QUALITY ACT (CEQA) COMPLIANCE

DTSC has found this rulemaking project to be exempt under CEQA. A draft of the Notice of Exemption (NOE) is available for review with the rulemaking file and the NOE will be filed with the State Clearinghouse when the regulations are adopted.

PEER REVIEW

Peer review under the provisions of Health and Safety Code section 57004 is not required since the proposed regulations do not establish a regulatory level, standard or other requirement subject to scientific peer review.

BUSINESS REPORT

DTSC has determined that this rulemaking will not require businesses to write a new report, as defined by Government Code section 11346.3(c).

FISCAL IMPACT ESTIMATES

Mandates on Local Agencies and School Districts: DTSC has made a determination that adoption of these regulations will create no new local mandates. These regulations provide a voluntary option for school districts that choose to conduct a Phase I Environmental Site Assessment. Any mandates that are imposed on school districts already exist in statute and these regulations impose no new mandates.

Estimate of Potential Cost or Savings to Local Agencies Subject to Reimbursement: DTSC has made a determination that adoption of these regulations will not impose a local mandate or result in costs subject to reimbursement pursuant to part 7 of division 4, commencing with section 17500, of the Government Code or other nondiscretionary costs or savings to local agencies.

Cost or Savings to Any State Agency: The requirements for completion of a Phase I Assessment in the regulations would have no fiscal impact on DTSC because the regulations merely clarify Phase I activities required by current law. The regulations could result in some additional costs for DTSC to review a Phase I Addendum. However, any costs for DTSC to review the Phase I Addendum would be reimbursed by the school district.

Cost or Savings in Federal Funding to the State: DTSC has made a determination that the proposed regulations will have no impact on Federal revenue or costs.

Effect on Housing Costs: DTSC has made a determination that there will be no impact on housing costs.

Cost Impacts on Representative Private Persons or Businesses: These regulations do not impose any costs over what is already required by statute. Specifically, any such costs would have been as a result of implementation of Senate Bill 162 (Stats. of 1999, ch. 1002) and Assembly Bill 387 (Stats. of 1999, ch. 992). Together these bills establish the authority for these regulations by requiring school districts, as a condition of receiving state funds, to enter into an agreement with DTSC to oversee response actions in certain instances as well as establishing the parameters for school districts conducting Phase I assessments. The statutes also have provisions for reimbursing DTSC for oversight costs. Costs for site cleanup will vary greatly from site to site.

Significant Statewide Adverse Economic Impact on Businesses: DTSC has made a determination that the proposed regulations will not have a statewide adverse economic impact directly affecting businesses, including the ability to compete with businesses in other states.

Assessment Statement:

- (A) **Creation or elimination of jobs within California**—DTSC has made a determination that no jobs will be created or eliminated in California as a result of the proposed regulations.
- (B) **Creation of new businesses or the elimination of existing businesses within California**—DTSC has made a determination

that no businesses will be created or eliminated in California as a result of the proposed regulations.

- (C) **Expansion of businesses currently doing business in California**—DTSC has made a determination that it is not likely that businesses in California will be expanded as a result of the proposed regulations.

Effect on Small Businesses: DTSC has determined that these regulations do not have an effect on small businesses because the regulations apply only to school districts seeking state funding for acquisition of property or construction projects.

CONSIDERATION OF ALTERNATIVES

DTSC must determine that no reasonable alternative it considered or that has otherwise been identified and brought to the attention of DTSC would be more effective in carrying out the purpose for which the action is proposed, or would be as effective and less burdensome to affected private persons than the proposed action. DTSC invites interested persons to present arguments, with respect to the various options, at the scheduled hearing, or during the written comment period.

AVAILABILITY OF TEXT OF REGULATIONS AND STATEMENT OF REASONS

Copies of the Notice, Initial Statement of Reasons and the text of the proposed regulations are posted to DTSC's Internet site at <http://www.dtsc.ca.gov> or may be obtained from Ms. Joan Ferber of DTSC's Environmental Analysis and Regulations Section as specified below. The information upon which DTSC relied is also available at the address listed below.

POST-HEARING CHANGES

After the close of the comment period, DTSC may adopt the proposed regulations. If substantial changes are made, the modified text will be made available for comment for at least 15 days prior to adoption. Only persons who request the specific proposed regulations, attend the hearing, or provide written comments on these specific regulations will be sent a copy of the modified text, if substantive changes are made.

Once regulations have been adopted, DTSC prepares a Final Statement of Reasons, which updates the Initial Statement of Reasons, summarizes how DTSC addressed comments and includes other materials, as required by Government Code section 11346.9. Copies of the Final Statement of Reasons may be obtained from Ms. Joan Ferber at the address listed below. A copy of the Final Statement of Reasons will also be posted on DTSC's Internet site at <http://www.dtsc.ca.gov>, along with the date the rule-making is filed with the Secretary of State and the effective date of the regulations.

CONTACT PERSONS

Inquiries regarding technical aspects of the proposed regulations or CEQA documents may be directed to Laurie Grouard of DTSC at (916) 323-3394 or, if unavailable, Kathleen Hartshorne of DTSC at (916) 323-3395. However, such oral inquiries are not part of the rulemaking record.

Statements, arguments or contentions regarding rulemaking and/or supporting documents must be submitted in writing or may be presented orally or in writing at the public hearing in order for them to be considered by DTSC before it adopts, amends or repeals these regulations. To be included in this regulation package's mailing list, and to receive updates of this rulemaking, please leave a message on the DTSC mailing list phone line at (916) 324-9933 or e-mail: regs@dtsc.ca.gov.

Please direct all written comments, procedural inquiries and requests for documents by mail, e-mail or fax to:

Ms. Joan Ferber, Regulations Coordinator
Environmental Analysis and Regulations Section
Department of Toxic Substances Control

Mailing Address: P.O. Box 806
Sacramento, CA 95812-0806

E-mail Address: regs@dtsc.ca.gov

Fax Number: (916) 323-3215

Ms. Ferber's phone number is (916) 322-6409. If Ms. Ferber is unavailable, please call Ms. Nicole Sotak at (916) 327-4508 or Mr. James McRitchie at (916) 327-8642.

GENERAL PUBLIC INTEREST

**CALIFORNIA ENVIRONMENTAL
PROTECTION AGENCY
OFFICE OF ENVIRONMENTAL
HEALTH HAZARD ASSESSMENT**

**SAFE DRINKING WATER AND TOXIC
ENFORCEMENT ACT OF 1986
(PROPOSITION 65)**

**NOTICE TO INTERESTED PARTIES
September 20, 2002**

**AVAILABILITY OF THE DRAFT HAZARD
IDENTIFICATION DOCUMENTS FOR
DIURON AND BROMACIL LITHIUM SALT**

The California Environmental Protection Agency's Office of Environmental Health Hazard Assessment

(OEHHA) is the lead agency for the implementation of the Safe Drinking Water and Toxic Enforcement Act of 1986 (Proposition 65).

The Developmental and Reproductive Toxicant (DART) Identification Committee of OEHHA's Science Advisory Board advises and assists OEHHA in compiling the list of chemicals known to the State to cause reproductive toxicity, which is mandated by Health and Safety Code Section 25249.8. The DART Identification Committee serves as the State's qualified experts for determining whether a chemical has been clearly shown through scientifically valid testing according to generally accepted principles to cause reproductive toxicity.

On November 16, 2001, OEHHA requested information in relation to the preparation of a draft hazard identification document on diuron, a chemical to be considered by the DART Identification Committee for possible addition to the Proposition 65 list. The data call-in period ended on January 16, 2002. No information or data were received on diuron.

OEHHA requested information in relation to the preparation of a draft hazard identification document on bromacil lithium salt on March 22, 2002. The data call-in period ended on May 6, 2002. No information or data were received on bromacil lithium salt.

OEHHA has prepared the draft hazard identification documents for diuron and bromacil lithium salt and announces the availability of the draft documents entitled: "Evidence on the Developmental and Reproductive Toxicity of Diuron," and "Evidence on the Developmental and Reproductive Toxicity of Bromacil Lithium Salt." Copies of the draft documents are available from the Proposition 65 Implementation Office and may be requested by calling (916) 445-6900. The documents are also available through the Internet at the following address: <http://www.oehha.ca.gov/>. This notice marks the beginning of a 60-day public comment period. Comments should be submitted in triplicate and directed to:

Cynthia Oshita
Office of Environmental Health Hazard Assessment
Proposition 65 Implementation
P.O. Box 4010
1001 I Street, 19th floor
Sacramento, California 95812-4010
FAX (916) 323-8803

In order to be considered, comments must be postmarked (if sent by mail) or received at OEHHA (if hand-delivered or sent by fax) by 5:00 p.m. on Tuesday, November 19, 2002.

OEHHA will organize and index the comments received and forward the information to the DART Identification Committee members prior to the meeting at which the candidate chemicals will be considered. The next meeting of the DART Identifi-

cation Committee is scheduled for **Wednesday, December 4, 2002**. The meeting will be held at Employment Development Department, 722 Capitol Mall, Auditorium, Sacramento, California, beginning at 10:00 a.m. and continuing until all business has been conducted, or 5:00 p.m. The agenda for the meeting will be provided in a future public notice published in advance of the December 4 meeting.

**CALIFORNIA ENVIRONMENTAL
PROTECTION AGENCY
OFFICE OF ENVIRONMENTAL
HEALTH HAZARD ASSESSMENT**

**SAFE DRINKING WATER AND TOXIC
ENFORCEMENT ACT OF 1986
(PROPOSITION 65)**

**NOTICE TO INTERESTED PARTIES
September 20, 2002**

**AVAILABILITY OF THE DRAFT HAZARD
IDENTIFICATION DOCUMENT FOR
PHENELZINE AND ITS ACID SALTS**

The California Environmental Protection Agency's Office of Environmental Health Hazard Assessment (OEHHA) is the lead agency for the implementation of the Safe Drinking Water and Toxic Enforcement Act of 1986 (Proposition 65).

The Carcinogen Identification Committee (CIC) of OEHHA's Science Advisory Board advises and assists OEHHA in compiling the list of chemicals known to the State to cause cancer, which is mandated by Health and Safety Code Section 25249.8. The Committee serves as the State's qualified experts for determining whether a chemical has been clearly shown through scientifically valid testing according to generally accepted principles to cause cancer.

On November 19, 1999, OEHHA requested information in relation to the preparation of a draft hazard identification document on phenelzine and its acid salts, a chemical to be considered by the CIC for possible addition to the Proposition 65 list. The 60-day data call-in period ended on January 18, 2000. No information or data were received on phenelzine and its acid salts.

OEHHA has prepared the draft hazard identification document for phenelzine and its acid salts and announces the availability of the draft document entitled: "Evidence on the Carcinogenicity of phenelzine and its acid salts." Copies of the draft document are available from the Proposition 65 Implementation Office and may be requested by calling (916) 445-6900. The document is also available through the Internet at the following address: <http://www.oehha.ca.gov/>. This notice marks the

beginning of a 60-day public comment period. Comments should be submitted in triplicate and directed to:

Cynthia Oshita
Office of Environmental Health Hazard Assessment
Proposition 65 Implementation
P.O. Box 4010
1001 I Street, 19th floor
Sacramento, California 95812-4010
FAX (916) 323-8803

In order to be considered, comments must be postmarked (if sent by mail) or received at OEHHA (if hand-delivered or sent by fax) by 5:00 p.m. on Tuesday, November 19, 2002.

OEHHA will organize and index the comments received and forward the information to the CIC members prior to the meeting at which the candidate chemical will be considered. The next meeting of the CIC is scheduled for **Tuesday, December 17, 2002**. The meeting will be held at the California Environmental Protection Agency Headquarters Building, Coastal Hearing Room, at 1001 I Street, Sacramento, California. The meeting will begin at 10:00 a.m. and will last until all business is conducted or until 5:00 p.m. The agenda for the meeting will be provided in a future public notice published in advance of the December 17 meeting.

<p>SUMMARY OF REGULATORY ACTIONS</p>

**REGULATIONS FILED WITH
SECRETARY OF STATE**

This Summary of Regulatory Actions lists regulations filed with the Secretary of State on the dates indicated. Copies of the regulations may be obtained by contacting the agency or from the Secretary of State, Archives, 1020 O Street, Sacramento, CA, 95814, (916) 653-7715. Please have the agency name and the date filed (see below) when making a request.

AIR RESOURCES BOARD

Distributed Generation Certification Program

This action adopts a regulatory certification program, including emissions standards, for distributed electricity generation by units that emit air contaminants and are not covered by a district permit or portable equipment registration.

Title 17
California Code of Regulations
ADOPT : 94200, 94201, 94202, 94203, 94204,
94205, 94206, 94207, 94208, 94209, 94210, 94211,
94212, 94213, 94214

Filed 09/04/02
Effective 10/04/02
Agency Contact: George Poppic (916) 322-3940

**BOARD FOR PROFESSIONAL ENGINEERS AND
LAND SURVEYORS**

Engineer-in-Training Examination Waiver

This regulatory action amends the requirements for obtaining a waiver from the examination for engineers-in-training.

Title 16
California Code of Regulations
AMEND : 438
Filed 09/09/02
Effective 10/09/02
Agency Contact: Janece Sargis (916) 263-0922

**BOARD OF CHIROPRACTIC EXAMINERS
Curriculum (OB/GYN and Protological Exams)**

This rulemaking allows individuals who have not completed the required gynecological and proctological examinations prior to graduation from a school of chiropractic to do so anytime after graduation.

Title 16
California Code of Regulations
AMEND : 331-12.2(e)
Filed 09/10/02
Effective 10/10/02
Agency Contact:
Lavelle Mathews (916) 263-6465

**BOARD OF PHARMACY
Delegation of Certain Functions**

The Board of Pharmacy is adopting, amending, and repealing the captioned sections in order to provide numbering changes for the Business and Professions sections which took place in Stats. 1996, Ch. 890, minor sunseting of identical sections, and the removal of sections pertaining to Stats. 2000, Ch. 837 repealing article 8 of Ch. 9, Business and Professions Code pertaining to medical devices in the retail market.

Title 16
California Code of Regulations
ADOPT : 1706.5, Article 5, Article 6, Article 7, Article 8, Article 10, Article 10.1. AMEND : 1703, 1704, 1705, 1706, 1706.1, 1707.1, 1707.3, 1708.2, 1708.3, 1708.4, 1709, 1710, 1715.6, 1716, 1716.1, 1716.2, 1717, 1717.1, 1717.2, 1717.4, 1718, 1718.1, 171
Filed 09/11/02
Effective 10/11/02
Agency Contact:
Debbie Anderson (916) 445-5014

**DEPARTMENT OF FISH AND GAME
Cental California Gill Net Fishery Closure**

This Certificate of Compliance closes the area from Point Reyes in Marin County to Point Arguello in Santa Barbara County to the use of gill and trammel nets in ocean waters 60 fathoms or less.

Title 14
California Code of Regulations
ADOPT : 104.1
Filed 09/04/02
Effective 09/04/02
Agency Contact: Joseph Milton (916) 654-5336

DEPARTMENT OF FOOD AND AGRICULTURE

This emergency rulemaking adds coast redwood and Douglas-fir as hosts of Phytophthora ramorum, which causes Oak Mortality Disease, and will establish the portions of these plants that will be subject to restrictions on handling and movement.

Title 3
California Code of Regulations
AMEND : 3700(c)
Filed 09/10/02
Effective 09/10/02
Agency Contact:
Barbara J. Hass (916) 654-1017

**DEPARTMENT OF PESTICIDE REGULATION
Permit Exemptions**

The Department of Pesticide Regulation is making minor amendments to the captioned section pertaining to permit exemptions under possession and use limitations.

Title 3
California Code of Regulations
AMEND : 6414
Filed 09/09/02
Effective 10/09/02
Agency Contact:
Linda Irokawa-Otani (916) 445-3991

**DIVISION OF LABOR STANDARDS
ENFORCEMENT
Garment Manufacturing Industry**

This rulemaking action implements AB 633 (Chapter 654, Statutes of 1999) which revised laws on registration of garment contractors and manufacturers, as defined, the liability of these entities for violating specified labor laws, including a wage guaranty, and collecting unpaid wages of workers employed in the garment industry. The proposed regulatory amendments detail the application and registration process, including fees and examinations, for manufacturers and contractors, set out enforcement procedures for unpaid minimum and overtime wages, including hearings, appeals, bonds, penalties, and so on, as well as defining recordkeeping requirements.

Title 8
 California Code of Regulations
 ADOPT : 13635.1, 13655, 13656, 13657, 13658,
 13659 AMEND : 13630, 13631, 13632, 13633,
 13634, 13635, 13637,13638,13639, 13640, 13641,
 13642, 13643, 13644, 13645, 13646,13647, 13648,
 13649,13650, 13651, 13652, 13653, 13654
 Filed 09/09/02
 Effective 10/09/02
 Agency Contact:
 Miles E. Locker (415) 703-4878

FAIR POLITICAL PRACTICES COMMISSION
 Technical Cleanup

The Fair Political Practices Commission is amending seven sections as nonsubstantive changes primarily to standardize cross reference citations.

Title 2
 California Code of Regulations
 AMEND : 18110, 18401, 18404.1, 18451, 18540,
 18705.4, 18997
 Filed 09/11/02
 Effective 09/11/02
 Agency Contact: Kelly Winsor (916) 327-0268

FISH AND GAME COMMISSION
 Chronic Wasting Disease

This emergency rulemaking restricts the transport of any hunter-harvested deer and elk into California, and only allows specified body parts.

Title 14
 California Code of Regulations
 ADOPT : 712
 Filed 09/09/02
 Effective 09/09/02
 Agency Contact: Robert Treanor

FISH AND GAME COMMISSION
 Hunting and Other Uses on State and Federal Areas

This rulemaking adds new wildlife areas and units, changes a name of a unit, increases hunting opportunities and public uses, and makes other changes to the regulations regarding wildlife areas and refuges.

Title 14
 California Code of Regulations
 AMEND : 550, 551, 552
 Filed 09/09/02
 Effective 09/09/02
 Agency Contact: John M. Duffy (916) 653-4899

MEDICAL BOARD OF CALIFORNIA
 Medical Board Licensing Exams

This action updates the Medical Board's rules on administration of examinations.

Title 16
 California Code of Regulations
 AMEND : 1305, 1306, 1328

Filed 09/10/02
 Effective 09/10/02
 Agency Contact:
 Kevin A. Schunke (916) 263-2368

STATE ALLOCATION BOARD
 Leroy F. Greene School Facilities Act of 1998

The regulatory action deals with priority points for new construction projects, program reporting requirements, program accountability progress audits and amending and withdrawal of applications.

Title 2
 California Code of Regulations
 AMEND : 1859.92, 1859.104, 1859.105, 1859.107
 Filed 09/09/02
 Effective 09/09/02
 Agency Contact: Lisa Jones (916) 322-1043

**CCR CHANGES FILED WITH THE
 SECRETARY OF STATE
 WITHIN MAY 08, 2002 TO
 SEPTEMBER 11, 2002**

All regulatory actions filed by OAL during this period are listed below by California Code of Regulation's titles, then by date filed with the Secretary of State, with the Manual of Policies and Procedures changes adopted by the Department of Social Services listed last. For further information on a particular file, contact the person listed in the Summary of Regulatory Actions section of the Notice Register published on the first Friday more than nine days after the date filed.

Title 2

09/11/02 AMEND: 18110, 18401, 18404.1, 18451,
 18540, 18705.4, 18997
 09/09/02 AMEND: 1859.92, 1859.104, 1859.105,
 1859.107
 08/19/02 ADOPT: 18535
 08/14/02 ADOPT: 56, 56.1, 56.2, 56.3, 56.4, 56.5,
 56.6, 56.7, 56.8
 08/12/02 ADOPT: 57.1, 57.2, 57.3, 57.4
 08/12/02 ADOPT: 1859.71.2, 1859.78.4, 1859.108
 AMEND: 1859.50, 1859.70, 1859.72,
 1859.73.1, 1859.73.2, 1859.74.1,
 1859.75.1, 1859.76, 1859.78.2,
 1859.79.3, 1859.81, 1859.81.1, 1859.82,
 1859.100, 1859.101, 1859.102, 1859.107
 08/07/02 ADOPT: 59000
 07/31/02 ADOPT: 18450.1
 07/25/02 AMEND: 2970

07/11/02 ADOPT: 1859.200, 1859.201, 1859.202, 1859.203, 1859.204, 1859.205, 1859.206, 1859.207, 1859.208, 1859.209, 1859.210, 1859.211, 1859.212, 1859.213, 1859.214, 1859.215, 1859.216, 1859.217, 1859.218, 1859.219, 1859.220
 07/11/02 AMEND: 18707.4
 07/11/02 AMEND: 554.6
 06/27/02 ADOPT: 18450.3, 18450.4, 18450.5
 AMEND: 18402
 06/27/02 ADOPT: 2351
 06/25/02 AMEND: 1189.10
 06/20/02 REPEAL: 548.96
 06/20/02 AMEND: 561.2, 561.3
 06/17/02 AMEND: 18239, 18615, 18616
 06/06/02 ADOPT: 18572
 05/28/02 ADOPT: 1896.300, 1896.310, 1896.320, 1896.330, 1896.340, 1896.350, 1896.360, 1896.370
 05/22/02 AMEND: 571(a)(5)
 05/13/02 AMEND: 18428
 05/10/02 AMEND: 18351
 05/09/02 AMEND: 20202, 20206, 20210, 20224, 20234, 20298, 20350, 20363, 20910
 REPEAL: 20106, 20205, 20213

Title 3

09/10/02 AMEND: 3700(c)
 09/09/02 AMEND: 6414
 08/30/02 AMEND: 3423(b)
 08/29/02 AMEND: 1408.3
 08/19/02 ADOPT: 3664, 3665, 3666, 3667, 3668, 3669
 08/14/02 AMEND: 6172, 6192, 6200, 6252
 08/13/02 AMEND: 3423(b)
 07/25/02 AMEND: 3423(b)
 07/23/02 ADOPT: 7015
 07/18/02 AMEND: 6000, 6710
 07/11/02 AMEND: 3700(b)
 07/03/02 AMEND: 1392.1, 1392.2, 1392.4, 1392.9.1
 07/01/02 ADOPT: 1180.3.1, 1180.3.2 AMEND: 300(c)
 06/20/02 REPEAL: 3431, 3591.17
 06/13/02 AMEND: 2303(t)
 06/13/02 ADOPT: 1366
 06/11/02 AMEND: 3425(b)
 06/10/02 AMEND: 3406(b)
 06/10/02 AMEND: 6391, 6393, 6394, 6395
 06/04/02 AMEND: 3591.16(a)
 05/29/02 AMEND: 1380.19, 1436.38, 1446.7, 1454.14, 1462.15
 05/16/02 AMEND: 1428.12, 1428.16

Title 4

09/03/02 AMEND: 1107
 08/15/02 ADOPT: 4144
 08/13/02 AMEND: 7000, 7001, 7002, 7003, 7003.5, 7004, 7005, 7006, 7007, 7008, 7009, 7010, 7011, 7012, 7013, 7013.1, 7013.5, 7014, 7015, 7016, 7017
 08/08/02 AMEND: 8072, 8074
 07/30/02 AMEND: 2050
 07/08/02 AMEND: 2049
 07/01/02 ADOPT: 12100, 12102, 12104, 12106, 12108, 12110, 12120, 12130
 05/13/02 ADOPT: 8110, 8111, 8112, 8113, 8114, 8115, 8116, 8117, 8118, 8119, 8120, 8121, 8122, 8123, 8124, 8125

Title 5

08/15/02 ADOPT: 11980, 11981, 11982, 11983, 11984, 11985,
 08/13/02 ADOPT: 11969.10 REPEAL: 11969.9
 07/31/02 AMEND: 30950, 30951.1, 30952, 30953, 30954, 30955, 30956, 30957, 30958, 30959
 07/30/02 ADOPT: 11969.1, 11969.2, 11969.3, 11969.4, 11969.5, 11969.6, 11969.7, 11969.8, 11969.9
 07/29/02 AMEND: 3051.16, 3065
 07/15/02 AMEND: 80105, 80109, 80110, 80111, 80112, 80113, 80114, and 80115
 07/12/02 AMEND: 51010, 53000, 53001, 53002, 53003, 53004, 53005, 53006, 53020, 53021, 53022, 53023, 53024, 53025, 53026, 53027, 53030, 53033, 53034
 06/28/02 ADOPT: 11983.5
 06/11/02 AMEND: 11530, 11531
 06/05/02 AMEND: 59311, 59328, 59342
 05/21/02 AMEND: 80026.4, 80026.6, 80122
 05/20/02 ADOPT: 55205, 55207, 55209, 55211, 55213, 55215, 55217, 55219 AMEND: 55316.5, 58003.1, 58003.3, 58007, 58009, 58051, 58056 REPEAL: 55317, 55352, 55370, 55372, 55374, 55376, 55378, 55380
 05/08/02 ADOPT: 80434 AMEND: 80001

Title 8

09/09/02 ADOPT: 13635.1, 13655, 13656, 13657, 13658, 13659 AMEND: 13630, 13631, 13632, 13633, 13634, 13635, 13637, 13638, 13639, 13640, 13641, 13642, 13643, 13644, 13645, 13646, 13647, 13648, 13649, 13650, 13651, 13652, 13653, 13654
 09/03/02 ADOPT: 20299

08/26/02 ADOPT: 340.40, 340.41, 340.42, 340.43, 340.44, 340.45, 340.46, 340.47, 340.48, 340.49, 340.50, 340.51, 340.52
 08/05/02 AMEND: 3362
 07/31/02 AMEND: 4799
 07/30/02 ADOPT: 290.0, 290.1, 291.0, 291.1, 291.2, 291.3, 291.4, 291.5, 292.0, 293.0, 294.0, 295.0
 07/11/02 AMEND: 3241(a)
 07/01/02 ADOPT: 417.5 AMEND: 406, 411.1, 415, 417.3 REPEAL: 411.2, 411.3, 411.4
 06/20/02 AMEND: 3700, 3702
 06/18/02 AMEND: 5189
 06/12/02 AMEND: 9791.1, 9792.5, 9793, 9795
 06/03/02 AMEND: 4885
 06/03/02 AMEND: 5034(f)
 05/28/02 AMEND: 3650, 3664
 05/20/02 AMEND: 32125, 32130, 32140, 32603, 32604, 32720, 32735, 32738, 32739, 32744, 32752, 32763, 32980

Title 8, 24

05/08/02 AMEND: 3011(d), 3120.1 and 3122.0

Title 9

07/31/02 ADOPT: 9851, 9874 AMEND: 9800, 9846, 9852, 9854, 9856, 9858, 9867, 9876, 9884, 9886 REPEAL: 9857
 06/28/02 ADOPT: 9526, 9531 AMEND: 9500, 9505, 9515, 9530, 9535

Title 10

08/30/02 AMEND: 5101
 08/29/02 AMEND: 2698.200, 2698.201, 2698.301, 2698.302
 08/28/02 AMEND: 2698.73
 08/28/02 ADOPT: 2278, 2278, 2278.1, 2278.2, 2278.3, 2278.4, 2278.5
 08/27/02 AMEND: 2632.5(d)(11)
 08/20/02 ADOPT: 1729, 1741.5, 1950.302 AMEND: 1741.5
 08/19/02 AMEND: 2130.3
 08/15/02 ADOPT: 5480, 5480.1, 5480.2, 5480.3, 5480.4, 5480.5, 5480.6, 5480.7, 5480.8
 08/12/02 AMEND: 2318.6
 08/12/02 AMEND: 2318.6, 2353.1
 08/05/02 REPEAL: 310.100.1
 07/10/02 ADOPT: 1422, 1423
 07/02/02 AMEND: 6070
 06/24/02 ADOPT: 2698.68
 06/20/02 ADOPT: 2729.5, 2790.6, 2846.1 AMEND: 2790.1, 2791.8, 2792, 2800, 2810, 2811, 2910, 2911, 2912, 2930
 06/20/02 AMEND: 2498.6
 06/17/02 ADOPT: 2193, 2193.1, 2193.2, 2193.3
 06/07/02 AMEND: 5.2001 and Appendix

06/06/02 AMEND: 2698.70, 2698.71 REPEAL: 01-1219-06 E
 06/03/02 ADOPT: 2192.1, 2192.2, 2192.3, 2192.4, 2192.5, 2192.6, 2192.7, 2192.8, 2192.9, 2192.10, 2192.11, 2192.12, 2192.13
 06/03/02 ADOPT: 2187.3 AMEND: 2186.1, 2187.1, 2187.2

Title 11

08/29/02 AMEND: 3000, 3001, 3003, 3007, 3008
 08/27/02 AMEND: 1070, 1082
 08/13/02 AMEND: 1005
 07/02/02 ADOPT: 410, 411, 415, 416, 417, 418, 419, 419.1, 419.2, 419.3, 420, 421, 422, 423, 424, 425, 426 REPEAL: 410, 411, 415, 416, 417, 418, 419, 420, 421, 422, 423, 424, 425, 426
 07/01/02 AMEND: 1081
 06/27/02 AMEND: 987.1
 06/19/02 ADOPT: 999.10, 999.11, 999.12, 999.13, 999.14, Appendix A
 05/24/02 AMEND: 1005
 05/21/02 AMEND: 1005

Title 13

07/25/02 AMEND: 422.01
 07/22/02 ADOPT: 2444.2 AMEND: 2111, 2112, 2139, 2140, 2147, 2440, 2441, 2442, 2443.1, 2443.2, 2443.3, 2444, 2445.1, 2445.2, 2446
 07/10/02 AMEND: 1213.1, 1230, 1239
 07/05/02 ADOPT: 225.00, 225.03, 225.06, 225.09, 225.12, 225.15, 225.18, 225.21, 225.24, 225.27, 225.30, 225.33, 225.36, 225.39, 225.42, 225.45, 225.48, 225.51, 225.54, 225.57, 225.60, 225.63, 225.66, 225.69, 225.72
 06/24/02 ADOPT: 1962.1 AMEND: 1900, 1962
 06/24/02 AMEND: 1270
 06/18/02 AMEND: 1
 06/03/02 AMEND: 565
 05/24/02 AMEND: 1900, 1960.1 (k), 1961, 1962 & the Incorporated Test Procedure

Title 14

09/09/02 AMEND: 550, 551, 552
 09/09/02 ADOPT: 712
 09/04/02 ADOPT: 104.1
 08/28/02 ADOPT: 786.7, 786.8 AMEND: 786.0, 786.1, 786.2, 786.3, 786.4, 786.5, 786.6
 08/26/02 ADOPT: 18090.0, 18090.1, 18090.2, 18090.3, 18091.1, 18092.0, 18093.0, 18093.1, 18094.0 AMEND: 18011
 08/21/02 AMEND: 7.50 (b)(212)

08/13/02 ADOPT: 844.3, 844.4, 844.5 AMEND: 790, 840, 840.1, 841, 842, 843, 843.1, 843.2, 843.3, 843.4, 843.6, 843.7, 843.8, 843.9, 844, 844.1, 844.2, 844.6, 844.7, 845, 845.1, and 845.2

08/12/02 ADOPT: 150.02, 150.04

08/09/02 AMEND: 670.2

08/06/02 AMEND: 28.59

07/31/02 ADOPT: 50.00, 50.01, 50.02, 50.03, 51.00, 51.01, 51.02, 51.04, 51.05, 155.01, 155.05, 155.10 AMEND: 109

07/25/02 ADOPT: 18085, 18086, 18087, 18088 AMEND: 18011, 18056

07/25/02 AMEND: 791.7; Forms FG OSPR-1925, FG OSPR-1947, and FG OSPR-1972.

07/17/02 AMEND: 2090, 2105, 2420, 2425, 2530, 2690 renumbered to 2850

07/15/02 ADOPT: 916.13, 936.13, 956.13, 916.13.1, 936.13.1, 956.13.1, 916.13.2, 936.13.2, 956.13.2, 916.13.3, 936.13.3, 956.13.3, 916.13.4, 936.13.4, 956.13.4, 916.13.5, 936.13.5, 956.13.5, 916.13.6, 936.13.6, 956.13.6, 916.13.7, 936.13.7, 956.13.7, 916.13.8, 936

07/12/02 AMEND: 895.1, 898, 914.8, 934.8, 954.8, 916, 936, 956, 916.2, 936.2, 956.2, 916.9, 936.9, 956.9, 916.11, 936.11, 956.11, 916.12, 936.12, 956.12, 923.3, 943.3, 963.3, 923.9, 943.9, 963.9

06/28/02 ADOPT: 708 AMEND: 265, 308, 360, 361, 362, 363, 364, 365, 367, 368, 401, 555, 601, 711 REPEAL: 370, 371, 372, 373

06/27/02 ADOPT: 4971

06/25/02 AMEND: 7.50

06/24/02 AMEND: 791, 791.5, 791.7, 792, 793, 794, 795, 796, and 797.

06/20/02 ADOPT: 17211, 17211.1, 17211.2, 17211.3, 17211.4, 17211.5, 17211.6, 17211.7, 17211.8, 17211.9

06/19/02 AMEND: 2135

06/19/02 AMEND: 2030

06/18/02 AMEND: 11900

06/13/02 ADOPT: 17402.5(c)(6), 17402.5(d)(3) AMEND: 17400, 17402, 17402.5

06/06/02 ADOPT: 749.1

06/05/02 AMEND: 1.1, 6159, 6170, 6170.5, 6171, 6179, 6184, 6185, 6200, 6206, 6222, 6243, 6254, 6255, 6262

05/30/02 AMEND: 1104.1

05/23/02 ADOPT: 52.10

05/22/02 AMEND: 1037.4, 1092.19

05/21/02 ADOPT: 17367, 17368, 17369, 17370.1, 17370.2, 18225

05/20/02 AMEND: 149

Title 14, 27

06/21/02 AMEND: 18104.8, 18105.9, 18105.10, 21140

Title 15

08/27/02 ADOPT: 3375.5 AMEND: 3000, 3375, 3375.1, 3375.2, 3375.3, 3375.4, 3377

08/19/02 ADOPT: 3426

07/24/02 ADOPT: 3220.2, 3220.3 AMEND: 3220, 3220.1

07/12/02 AMEND: 3000, 3454, 3456, 3457, 3458, 3459, 3460, 3462, 3463, 3464

05/08/02 ADOPT: 4746.5

Title 16

09/11/02 ADOPT: 1706.5, Article 5, Article 6, Article 7, Article 8, Article 10, Article 10.1. AMEND: 1703, 1704, 1705, 1706, 1706.1, 1707.1, 1707.3, 1708.2, 1708.3, 1708.4, 1709, 1710, 1715.6, 1716, 1716.1, 1716.2, 1717, 1717.1, 1717.2, 1717.4, 1718, 1718.1, 171

09/10/02 AMEND: 1305, 1306, 1328

09/10/02 AMEND: 331-12.2(e)

09/09/02 AMEND: 438

08/20/02 AMEND: 1382.3

08/08/02 AMEND: 1707.2

08/07/02 ADOPT: 4140, 4141, 4142, 4143

08/01/02 ADOPT: 3367, 3368

07/31/02 AMEND: 2473

07/30/02 AMEND: 1399.523

07/26/02 AMEND: 3340.16, 3340.16.5, 3340.17, 3340.32, 3340.42, 3340.50 REPEAL: 3340.16.7

07/17/02 AMEND: 1387.1

07/03/02 AMEND: 3394.4 and 3394.6

07/01/02 ADOPT: 638, 639, 640, 641

06/12/02 ADOPT: 4, 9, 12, 12.5, 13, 14 AMEND: 6, 7, 9, 9.1, 10, 11.5, 37, 50

06/03/02 AMEND: 2034, 2036

05/29/02 ADOPT: 980.1 AMEND: 974

05/28/02 AMEND: 3340.42

05/24/02 ADOPT: 832.06 AMEND: 832.05

05/21/02 ADOPT: 1356.5

05/21/02 ADOPT: 2412 AMEND: 2411, 2418

05/21/02 AMEND: 2006

05/16/02 AMEND: 832.54

05/08/02 AMEND: 832.09

Title 17

09/04/02 ADOPT: 94200, 94201, 94202, 94203, 94204, 94205, 94206, 94207, 94208, 94209, 94210, 94211, 94212, 94213, 94214

08/29/02 AMEND: 57332

08/22/02 ADOPT: 33001, 33002, 3303, 33004, 33005, 33006, 33007, 33008, 33010, 33011, 33012, 33013, 33014, 33015, 33025, 33050 AMEND: 33020, 33030, 33040 REPEAL: 33001, 33010

08/20/02 ADOPT: 93112

08/19/02 ADOPT: 94164, 94165 AMEND: 94010, 94011, 94153, 94155, 94163,

08/08/02 AMEND: 30253

08/08/02 AMEND: 58420

07/22/02 ADOPT: 93105

07/17/02 ADOPT: 2638 AMEND: 2500, 2502, 2505, 2551, 2552, 2553, 2596, 2614, 2626

06/28/02 AMEND: 6508

06/10/02 AMEND: 90700, 90701, 90702, 90703, 90704, 90705 & to the tables in Section 90705

05/16/02 AMEND: 6508

Title 18

09/03/02 AMEND: 1541

09/03/02 ADOPT: 1534

09/03/02 AMEND: 1540

08/20/02 AMEND: 1528

08/19/02 AMEND: 1543

07/02/02 ADOPT: 1533.2

06/11/02 ADOPT: 255, 263, 264, 265 AMEND: 252, 254, 261, 304 REPEAL: 253, 256, 262

06/11/02 ADOPT: 1123, 1124, 1161, 1178, 1435, 1436 AMEND: 1101, 1105, 1120, 1132, 1134, 1420, 1422, 1430 REPEAL: 1103, 1104, 1106, 1107, 1108, 1114, 1115, 1116, 1117, 1118, 1119, 1121, 1131, 1133, 1151, 1152, 1153, 1154, 1155, 1171, 1172, 1173, 1174, 1175, 1176

06/11/02 AMEND: 21 REPEAL: 23, 24, 25, 26

06/07/02 AMEND: 1533.1

06/07/02 ADOPT: 1533

06/07/02 ADOPT: 1525.7

06/06/02 ADOPT: 1507

06/05/02 AMEND: 1111, 1122, 1137, 1177, 1413, 1470; section 1470 withdrawn from the instant filing.

06/04/02 AMEND: 135

05/29/02 AMEND: 23101.5

05/20/02 ADOPT: 138

05/16/02 ADOPT: 139

05/15/02 AMEND: 1699

05/14/02 AMEND: 905

05/14/02 AMEND: 1603

05/13/02 ADOPT: 1434

05/13/02 ADOPT: 4011 AMEND: 4061

Title 19

05/22/02 ADOPT: 2000

05/16/02 REPEAL: 596.15 & 596.16 & Article 12 thru Article 23 {all duplicated in the code}

Title 20

06/03/02 ADOPT: 1342, 1343, 1344 AMEND: 1302, 1303, 1306, 1307, 1308, 1340, 1341, 2503, 2505, 2507 REPEAL: 1342, 1343, 1344, 1349

Title 22

09/03/02 AMEND: 40633

09/03/02 ADOPT: 69100, 69101, 69102, 69103, 69104, 69105, 69106, 69107

08/27/02 AMEND: 12601, 12201

08/22/02 ADOPT: 110385, 110449, 110554, 118020, 118203

08/21/02 AMEND: Chapter 1; Section 7000

08/14/02 ADOPT: 111560

08/06/02 ADOPT: 63000.17, 63000.47, 63000.66, 63000.70, 63000.81, 63000.84, 63000.85, 63000.86, 63000.87, 63000.88, 63015, 63058 AMEND: 63000.19, 63000.37 (and renumbered to 63000.67), 63000.40, 63000.43, 63000.62, 63000.86 (and renumbered to 63000.89), 63000.89

08/06/02 ADOPT: 66273.6, 66273.80, 66273.81, 66273.82, 66273.83, 66273.84, 66273.85, 66273.86, 66273.87, 66273.68, 66273.69, 66273.90 AMEND: 66271.9, 66273.1, 66273.8, 66273.9

08/05/02 AMEND: 68200, 68201, 68202, 68203, 68204, 68205, 68206, 68207, 68208, 68209, 68210, 68211, 68212, 68213, 68214

08/01/02 AMEND: 66262.54, 66264.71, 66264.72, 66265.71, 66265.72, 66270.30, Appendix

07/22/02 ADOPT: 111550

07/18/02 AMEND: 12705, 12805

07/16/02 AMEND: 51503, 51503.2, 51504, 51505.1, 51505.2, 51505.3, 51507, 51507.2, 51507.3, 51509, 51509.1, 51514, 51517, 51521, 51527, 51527, 51529, 51535.5

07/15/02 ADOPT: 64860

07/03/02 ADOPT: 66268.31.5 AMEND: 66261.32, 66261.33, Ch. 11 App. VII, Ch. 11 App. VIII, 66268.7, 66268.33, 66268.39.5, 66268.40 and table entitled "Treatment Standards for Hazardous Wastes, 66268.48, 66268.49, Ch. 18 App. VII.

06/19/02 ADOPT: 67900.1, 67900.2, 67900.3, 67900.4, 67900.5, 67900.6, 67900.7, 67900.8, 67900.9, 67900.10, 67900.11, 67900.12

06/10/02 ADOPT: 100178.1 AMEND: 100177, 100178

Title 22, MPP

08/15/02 ADOPT: 110041, 110042, 110098, 110284, 110299, 110428, 110539, 110609, 112002, 112015, 112025, 112034, 112035 AMEND: 110430, 110431, 110473, 112100, 112110, 12130, 112140, 112150, 112152, 112154, 112155, 112200, 112210, 112300, 112301, 112302, REPEAL: 12

08/09/02 AMEND: 80001, 80006, 80061, 80065, 80068.3, 80071, 80075, 80077.2, 80077.3, 80077.4, 80087, 80090, 80092.1, 80092.2, 80092.3, 80092.4, 80092.6, 80092.7, 80092.8, 80092.9, 80092.10, 80092.11 REPEAL: 80095

08/09/02 ADOPT: 80075.1, 82075.2, 87575.2, 87925 AMEND: 80001, 80061, 82001, 82061, 87101, 87561, 87801, 87861

08/07/02 AMEND: 101218.1, 102419, 102421

08/01/02 AMEND: 87101, 87565, 87566, 87568, 87589

07/24/02 ADOPT: 110000, 110042, 110046, 110088, 110099, 110109, 110129, 110135, 110147, 110148, 110150, 110164, 110182, 110184, 110186, 110194, 110200, 110220, 110224, 110230, 110252, 110261, 110289, 110341, 110410, 110431, 110436, 110445, 110456, 110474, 110478,

07/23/02 ADOPT: 87227.1, 87583.1 AMEND: 80007(a), 87101(s), 87107(a), 87114, 87118(a), 87222(a), 87561(a)(1)(A), 87585(a), 87587, 87700 87702, 87807(a), 87854(d)

06/26/02 ADOPT: 89202, 89261, 89319, 89323, 89370, 89372, 89374, 89376, 89388, 89400, 89405 AMEND: 87000, 87001, 87005, 87006, 87007, 87009, 97010, 97010.1, 87010.2, 87017, 87018, 87019, 87019.1, 87019.2, 87020, 87021, 87024, 87026, 87027, 87028, 87029, 87031, 8

05/29/02 ADOPT: Title 22 section 119184 REPEAL: MPP section 12-225.3

Title 23

08/27/02 ADOPT: 3410, 3410.1, 3410.2, 3410.3, 3410.4, 3410.5

08/23/02 ADOPT: 2729, 2729.1

08/08/02 AMEND: 3953

07/30/02 AMEND: 2910

07/18/02 ADOPT: 3936

07/16/02 ADOPT: Publish new section 3935

06/07/02 ADOPT: 510, 511, 512, 513, 514, 515, 516, 517

05/23/02 ADOPT: 3962

Title 27

07/23/02 ADOPT: 10010(a), 10010(b), 10010(c), 10010(d) REPEAL: 10010

05/09/02 AMEND: 22200, 22228, 22233, 22248, Form CIWMB 106 (08/2001)

Title 28

08/19/02 ADOPT: 1300.73.21

08/12/02 ADOPT: 1001, 1002, 1003, 1004, 1005, 1006, 1007, 1008

07/17/02 ADOPT: 1300.67.05

07/08/02 REPEAL: 1300.75.4.2, 1300.75.4.4

Title MPP

08/30/02 ADOPT: 16-001, 16-003, 16-005, 16-010, 16-015, 16-105, 16-120, 16-130, 16-201, 16-215, 16-301, 16-310, 16-315, 16-320, 16-325, 16-401, 16-410, 16-501, 16-505, 16-510, 16-515, 16-517, 16-520, 16-601, 16-610, 16-701, 16-750, 16-801 AMEND: 20-300, 44-302,

08/06/02 AMEND: 63-102, 63-103, 63-300, 63-301, 63-503

08/01/02 AMEND: 42-701.2(w), 42-710.1, 42-710.2, 42-710.3, 42-711.522(c)(1), 42-711.544, 42-711.91, 42-711.931, 42-711.941, 42-712.441(a), 42-718.21, 42-719.11, 42-719.111, 42-719.2, 42-719.3, 42-721.511(d)

08/01/02 AMEND: 40-181.1(e); 42-710.6; 42-711.5, .6, &.8, 42-721.1&.4 44-314.1 &.2; 80-301(r); and 82-812.6

07/26/02 AMEND: 63-402

07/24/02 ADOPT: 16-702

07/22/02 ADOPT: 40-188.136, 40-188.16, 40-188.21 AMEND: 40.101.11, 40-188.11, 40-188.12, 40-188.13, 40-188.131, 40-188.132, 40-188.133, 40-188.137, 40-188.138, 40-188.15, 40-188.17, 40-188.22, 40-188.23, 40-188.24, 40-188.25, 40-190.22

07/03/02 ADOPT: 69-209, 69-210 AMEND: 69-201, 69-202, 69-203, 69-204, 69-205, 69-206, 69-207, 69-208, 69-211, 69-212, 69-213, 69-214, 69-215, 69-216, 69-217, 69-301, 69-302, 69-303, 69-304, 69-205 69-306 REPEAL: 69-210, 69-221

06/28/02 ADOPT: 40-107.141, 40-107.142, 40-107.143, 40-107.144, 40-107.15, 40-107.151, 40-107.152, 42-302.114, 42-302.114(a)-(c), 42-302.21(h)(1), 42-302.3, 44-133.8, 82-833 AMEND: 40-107.14, 40-107.16, 40-107.17, 40-107.18, 40-107.19, 42-301.2, 44-133.51, 82-8

06/25/02 AMEND: 31-001, 31-002, 31-075, 31-401, 31-405, 31-410, 31-420 31-440, 31-445

05/09/02 ADOPT: 44-302 AMEND: 25-301, 25-302, 25-303, 25-304, 25-305, 25-306, 25-310.3, 25-330.9, 25-506, 44-304, 44-305, 44-325, 44-327, 80-310

RECISSION OF REGULATORY ACTIONS

BOARD OF EDUCATION

DISPUTE RESOLUTION

On August 13, 2002, the Office of Administrative Law filed with the Secretary of State regulations proposed by the Board of Education, OAL file #02-071501S, adding CCR Title 5, section 11969.10, concerning dispute resolution. The Board of Education had estimated the regulations would impose no costs on governmental entities. Pursuant to Section 11357 of the Government Code, Section 6660 of the State Administrative Manual (SAM) requires a state agency to obtain the concurrence of the Department of Finance (DOF) in its estimate if the regulations will have a fiscal effect on governmental entities, including reimbursable local costs. A properly completed STD 399 would have provided an estimate of the costs to governmental entities and necessitated DOF concurrence under Section 6660 of the SAM. DOF formally advised OAL on September 11, 2002, that DOF does not agree with the Board's estimate of no costs. DOF further directed OAL to rescind its action that approved the proposed regulations and to return the regulations to the Board in accordance with subdivision (d) of Section 11349.1 of the Government Code.

Lacking the requisite concurrence of DOF, the approval and filing of these regulations, OAL file #02-0715-01S, adding CCR Title 5, section 11969.10, with the Secretary of State on August 13, 2002, was premature. Consequently, on September 11, 2002, OAL rescinded its action of August 13, 2002, and returned the regulations to the Board of Education pursuant to subdivision (d) of Section 11349.1 of the Government Code.

California Code of Regulations
Section 11969.10
Filed 09/11/02
Effective 09/11/02
Agency Contact Pat McGinnis (916) 657-4669

OAL REGULATORY DETERMINATIONS

STATE OF CALIFORNIA OFFICE OF ADMINISTRATIVE LAW

2002 OAL DETERMINATION NO. 6-L (Gov. Code, sec. 11340.5; Cal. Code Regs., tit. 1, sec. 123(c))

September 5, 2002

Ilson W. New
1801 Van Ness Avenue, Suite 350
The California Federal Bldg.
San Francisco, CA 94109

**Re: Request for Determination concerning the
Department of Fish and Game's time limita-
tions on filing citizen complaints;
OAL file no. 00-006**

Dear Mr. New:

You requested the Office of Administrative Law ("OAL") to issue a determination as to whether the 90-day time limitation on filing a citizen complaint, contained in the Department of Fish and Game's ("Department") "Citizen Complaint Investigation" procedures, is a "regulation" which must be adopted pursuant to the Administrative Procedure Act ("APA"; Gov. Code, sec. 11340 et seq.).

A copy of the then current (1997) version of the Department's Citizen Complaint Investigation procedures was provided along with your determination request. The 1997 version contained the following provision: "Complaints of major violations must be received within the statute of limitations as provided in law. If no statute exists in law they must be received within one year. Complaints of infractions must be received within 90 days." It is this 90-day time limitation (herein "90-day rule") with which you are concerned.

In issuing a determination, OAL renders an opinion as to whether a challenged rule is a "regulation" as defined in Government Code section 11342.600, which should have been, but was not, adopted pursuant to the APA.

Government Code section 11342.600 defines "regulation" to mean "every rule, regulation, order, or standard of general application or the amendment, supplement, or revision of any rule, regulation, order, or standard adopted by any state agency to,

implement, interpret, or make specific the law enforced or administered by it, or to govern its procedure.” For an agency rule to be a “standard of general application,” it need not apply to all citizens of the state. It is sufficient if the rule applies to all members of a class, kind or order.¹

We think that, at the time your request for determination was submitted to OAL, the 90-day rule contained in the Department’s “Citizen Complaint Investigation” procedures met the definition of “regulation.” The 90-day rule applied generally to all members of an open class, e.g., anyone who submitted a complaint involving an alleged infraction. Furthermore, the 90-day rule implemented Penal Code section 832.5.² OAL also determined that the 90-day rule did not fall within any express statutory exemption from the rulemaking requirements of the APA.

However, since the time of the original request for determination, the 90-day rule contained in the Department’s “Citizen Complaint Investigation” procedures has been declared by the Department to be no longer in effect. In a letter to OAL dated August 6, 2002, the General Counsel of the Department stated:

“Enclosed please find a letter from Gregory L. Laret, Chief of the Conservation Education and Enforcement Branch, which states that the Department has rescinded the portion of its Citizen Complaint Investigation Policy relating to time limitations on filing of citizen complaints. . . .”

The letter from Mr. Laret, dated August 5, 2002, stated in part the following:

“Attached please find an email memorandum dated August 5, 2002, in which I rescinded the portion of the Department of Fish and Game’s Citizen Complaint Investigation Policy relating to time limitations on filing of citizen complaints. As of the date of this memorandum [August 5, 2002] all complaints are to be accepted and reviewed regardless of when the incident giving rise to the complaint occurred and when the complaint was received by the Department.”

¹ *Roth v. Department of Veteran Affairs* (1980) 110 Cal.App.3d 622, 630, 167 Cal.Rptr. 552, 556; see *Faulkner v. California Toll Bridge Authority* (1953) 40 Cal.2d 317, 323–324 (a standard of general application applies to all members of any open class).

² Penal Code section 832.5 provides in part the following: “(a) Each department or agency in this state that employs peace officers shall establish a procedure to investigate complaints by members of the public against the personnel of these departments or agencies, and shall make a written description of the procedure available to the public. . . .”

Thus, as discussed above, the Department has declared that it has discontinued the use of the 90-day rule contained in the Department’s “Citizen Complaint Investigation” procedures (i.e., the document is no longer in effect). Consequently, the matter having been disposed of, we contemplate no further action in its regard.³

Sincerely,

DEBRA M. CORNEZ
Senior Counsel

For: David B. Judson
Deputy Director and Chief Counsel

cc: Robert C. Hight, Director
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³ Section 123 of title 1 of the CCR provides in part the following:

“(b) OAL shall not accept for filing any request for determination if OAL finds that the state agency rule being challenged:

- (1) has been superseded;
- (2) has expired by its own terms;
- (3) *has been declared in writing by the state agency under penalty of perjury, in accordance with Code of Civil Procedure Section 2015.5, to have been rescinded or to no longer be in effect;*
- (4) has been nullified by a court in a judgment that has become final;
- (5) is contained in a regulation adopted pursuant to the APA;
- (6) is contained in a California Statute;
- (7) is clearly within the scope of an express statutory exemption from the APA; or
- (8) is the same rule, or is substantially the same (i.e., has the same effect) as a rule from the same state agency, on which OAL has already issued a determination.

“(c) If, after accepting a request for determination, OAL finds that the challenged state agency rule falls within subsection (b), OAL may at any time issue a summary determination letter instead of a determination pursuant to sections 124, 125, and 126. Any summary determination letter shall be issued pursuant to section 127. [Emphasis added.]”

This summary determination letter is being issued pursuant to section 123, subsection (c), because the challenged agency rule falls within section 123, subsection (b)(3).

